United States Court of Appeals

for the Second Circuit

APPENDIX

B

P/S

74-1735

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket 74-1735

EMPIRE TRANSPORT INC., as owner
of the STEAMSHIP POTOMAC,

Plaintiff-Appellant,

—against—

UNITED STATES OF AMERICA,

Defendant-Appellee.

JOINT APPENDIX

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UNITED STATES COURT OF APPEALS
FILED
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SECOND CIRCUIT

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Relevant Docket Entries

DATE	PROCEEDINGS
Jul. 10—72	Filed complaint and issued summons
Oct. 12—72	Filed ANSWER by deft. to complaint
Sep. 25—73	Before Tyler, J—nonjury trial begun (on issue of liability only)
Mar. 26—74	Filed JUDGMENT. Ordered that deft. have judgment against pltff dismissing complaint on the merits with costs to be taxed. JUDGMENT ENTERED same dte (mn)
May 20—74	Filed pltff's notice of appeal from judgment dtd 3/22/74. mailed notices.

Complaint

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

EMPIRE TRANSPORT INC., as Owners of the Steamship POTOMAC,

Plaintiff,

—against—

UNITED STATES OF AMERICA,

Defendant.

Plaintiff, by Burlingham Underwood & Lord its attorneys, for its complaint against defendant alleges upon information and belief as follows:

First: At all times hereinafter mentioned Empire Transport Inc. was and now is a corporation organized and existing under and by virtue of the laws of the State of New York, having an office and principal place of business at Two Pennsylvania Plaza in the City and Southern District of New York and owner of the Steamship POTOMAC, which at the time of events herein set forth was tight, staunch, strong, properly manned and equipped and in all respects seaworthy.

Second: The defendant, United States of America was at all times hereinafter mentioned and now is a corporation sovereign which has, by the terms of provisions of the Suits in Admiralty Act, 46 U.S. Code, Sec. 741, et seq., consented to be sued upon the claim hereinafter set forth.

Complaint

Third: This is a case of admiralty and maritime jurisdiction as hereinafter more fully appears, within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.

Fourth: Defendant through its Naval Oceanographic Office issued a navigating number chart for Casablanca Harbor, Morocco, West Africa, N.O. 51222, formerly H.O. 3777 marked "2nd ed., Mar. 1951; revised 5/23/66" and corrected by the Naval Oceanographic Distributing Center at Clearfield, Utah through Notice to Mariners No. 49 dated December 11, 1971 which was purchased by plaintiff and placed on board the POTOMAC and was in use by her navigating personnel at the times hereinafter described.

Fifth: In the afternoon of February 26, 1972, Steamship POTOMAC was proceeding on a voyage from Houston, Texas to Casablanca, Morocco laden with a full cargo of bulk wheat destined for Casablanca. Approaching Casablanca Harbor entrance, her course was set to pass between the end of the breakwater and the buoy marking the entrance to the Harbor and to clear the underwater extension of the breakwater as represented on defendants chart N.O. 51222. Her Master was conning the vessel, a mate was at the engine room telegraph and an experienced quartermaster was at the wheel. As POTOMAC's bow came abeam of the breakwater, the vessel stranded on the underwater extension, 400 yards from the end of the visible breakwater, causing severe damage and extensive loss for which this action is brought.

Sixth: The aforesaid stranding and resulting damage were not caused or contributed to by any fault or neglect on the part of the plaintiff, its agents, servants, or em-

ployees, or its vessel but were due solely to the negligence and wrongful acts and omission of the defendant, its agents, servants, and employees in the following respects among others:

1. Defendant negligently misrepresented the position of the underwater extension of the breakwater on its navigating chart N.O. 51222.

2. Defendant upon receiving information of the correct position of the underwater extension of the breakwater, failed to issue appropriate Notice to Mariners or other warnings.

3. Defendant failed to correct chart N.O. 51222 after it had information as to the position of the underwater extension of the breakwater.

4. Defendant failed to take any other measures to correct the chart or to warn mariners after it received information of the correct position of the obstruction to navigation.

Seventh: By reason of the premises, Steamship POTOMAC suffered extensive damage in the sum of about $1,500,000, including cost of repairs, detention and miscellaneous expenses.

Eighth: All and singular the premises are true and within the maritime and admiralty jurisdiction of the United States and of this Honorable Court.

WHEREFORE, Plaintiff prays that defendant, the United States of America be required to appear herein and answer all and singular the matters aforesaid, and that this

cause be heard and determined according to the principles of law and the rules and practice obtaining in like causes between private parties, and that this Court will make a decree in favor of plaintiff and against defendant for the amount of damages aforesaid, with interest and cost, and that plaintiff may have such other and further relief as may be just.

Dated: New York, New York
July 10, 1972

BURLINGHAM UNDERWOOD & LORD

By s/ JOSEPH C. SMITH
A Member of the Firm
Attorneys for Plaintiff
25 Broadway
New York, New York 10004

Answer

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[CAPTION OMITTED]

Defendant, United States of America, for its answer to the complaint, shows upon information and belief:

1. Denies each and every allegation contained in paragraph First, except that it denies knowledge or information sufficient to form a belief as to the incorporation, place of business of plaintiff, Empire Transport Inc., and with respect to the ownership of the steamship POTOMAC.

2. Denies each and every allegation contained in paragraph Second, except that it admits that the United States of America is a sovereign which has consented to be sued under the terms and conditions of the Suits in Admiralty Act, 46 U.S.C. 741-752.

3. Admits the allegations of paragraph Third.

4. Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph Fourth except that it admits that the defendant, through its Naval Ocean Oceanographic Office, at Suitland, Maryland, (now part of National Defense Mapping Agency), made available for purchase navigational chart No. 51222, formerly H.O. 3777 entitled "RADE DE CASABLANCA" indicating on the face of the chart that the information thereon was "From

French surveys to 1920 with additions from a French chart of 1955."

5. Denies knowledge or information sufficient to form a belief as to the allegations of paragraph Fifth.

6. Denies each and every allegation contained in paragraph Sixth.

7. Denies each and every allegation contained in paragraph Seventh.

8. Denies each and every allegation contained in paragraph Eighth, except that it admits the maritime and admiralty jurisdiction of the United States and of this Honorable Court.

As and for a First, Separate and Complete Defense, Defendant, United States of America, Alleges Upon Information and Belief:

9. The alleged stranding of the steamship POTOMAC and any damages resulting therefrom were solely caused by the negligence of her master, and/or crew, and/or those in charge of the vessel and/or those for whom plaintiff is responsible.

As and For a Second, Separate and Complete Defense, Defendant, United States of America, Alleges Upon Information and Belief:

10. The stranding of the SS POTOMAC and any damages resulting therefrom were solely caused by her master, and/or those in charge of her navigation, having violated the

Answer

Vizirial Decree of 20 February 1966, 8 HIJA 1355, of Morocco requiring compulsory pilotage for entry into the harbor of Casablanca in that the SS POTOMAC attempted to enter the harbor of Casablanca without a local pilot.

As and for a Third, Separate and Complete Defense, Defendant, United States of America, Alleges Upon Information and Belief:

11. The stranding of the SS POTOMAC and any damages resulting therefrom were solely caused by reason of the SS POTOMAC proceeding in an area specifically prohibited by Article 5.3.3, and other related Articles, of the Sailing Instructions to Mariners in that the vessel attempted to proceed in the prohibited area between whistle buoy "CA 5" and a jetty located southwesterly of said buoy "CA 5".

As and for a Fourth, Separate and Complete Defense, Defendant, United States of America, Alleges Upon Information and Belief:

12. The stranding of the SS POTOMAC and any damages resulting therefrom were solely caused by reason of the SS POTOMAC's master, and/or those in charge of her navigation, attempting to proceed on the wrong side of the entrance buoy to the harbor of Casablanca contrary to the requirements of the lateral system of buoyage in effect at all material times at Casablanca, Morocco.

WHEREFORE, defendant, prays that the complaint be dismissed with costs to the government and for such other and further relief as to the Court may seem just and proper.

Dated: New York, N.Y.
October 11, 1972.

WHITNEY NORTH SEYMOUR, JR.
United States Attorney

GILBERT S. FLEISCHER
Attorney in Charge
Admiralty & Shipping Section
Department of Justice
26 Federal Plaza, Suite 4048
New York, N.Y. 10007
Attorneys for Defendant, USA

By: JANIS G. SCHULMEISTERS

The sailing directions that the Master had on board and he claims to have read, said the underwater construction extends 400 yards, precisely or almost precisely at the point where the Master stranded. He certainly knew that that was no place to go.

Basically, your Honor, the government contends it is not liable for the stranding at all.

THE COURT: All right.

Now, I guess we can call Captain Wadleigh.

MR. SMITH: Captain Wadleigh.

H A R L A N W A D L E I G H , called as a witness for the plaintiff, having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SMITH:

MR. SMITH: Your Honor, as I said previously, most of our testimony is going in by deposition and all of the exhibits are marked and rather than confuse the record or the Court, I would like to put the depositions in with the same numbers that we had on at the time we took the depositions

For example, the first one is the chart that the Master used at the time of the stranding, and that was previously marked as Defendant's Exhibit D.

sailing directions and that just the first page of it be put in which identifies the sailing directions.

MR. SCHULMEISTERS: I think it should go in together with it because it is part of the whole thing.

THE COURT: I agree. I don't see what difference it makes. Let's put the whole thing in. That will be Exhibit 101.

(Plaintiff's Exhibit 101 received in evidence.)

Q Captain Wadleigh, what is your profession?

A Just until--up until June 23, I was a Portland pilot.

Q Prior to being a pilot in the Portland harbor, what did you do?

A I was sailing in various capacities for U.S. Lines for a period--over a 17-year period and the last seven of which were sailing as Master.

Q When did you first start going to sea or when did you first become associated with the seafaring profession?

A In 1931.

Q In what capacity?

A As a deckhand.

Q How long were you a deckhand?

A Off and on over a period of 10 years. Then I

went to Fort Trumbull in Connecticut and studied for a deck officer's license, which I received in 1942.

Q How many license examinations have you taken since 1942?

A I am on my fifth issue of masters. Fifth issue of master's license and prior to that I took examination for second officer and chief officer and first mate.

Q So altogether you took four examinations from third mate to master; is that correct?

A Three.

Q Did you sit for an original second mate's license?

A No, I didn't.

Q Did you sit for a third mate's license?

A Yes.

Q A second mate's license.

A Yes.

Q A chief mate's license?

A Yes.

Q And a master's license?

A Correct.

Q That's four licenses?

A Correct.

Q Did you sit for any other licenses that are issued by the U.S. Coast Guard?

A Only for pilotage.

Q Explain what pilotage is.

A That--pilotage for the Portland harbor and approaches, Hussey Sound and approaches, Broad & Luckse Sound, and approaches, and that's all.

Q How many license examinations did that require you to obtain that pilotage?

A Two.

Q So altogether you have taken six examinations given by the U.S. Coast Guard for various licenses; is that correct?

A Originals, yes.

Q In sailing with the U.S. Lines for 17 years, where in the world did you sail, on what routes were you sailing?

A I sailed from New York to Liverpool, Manchester, Dublin, Glasgow; from South Jacksonville, Charleston, Wilmington, North Carolina, to the same ports in the United Kingdom; from New York to Antwerp and Rotterdam, Bremerhaven; from New York to LeHavre, Bordeaux, LaPallice, St. Nazaire, Bilbao, Spain; from New York to Australia, various ports in Australia via the Panama

Canal; from New York to Honolulu, the Phillipine Island ports, Hong Kong, Taiwan ports, Korean ports, and Japanese ports.

MR. SMITH: I wonder, your Honor, if Mr. Schulmeisters would like to examine Captain Wadleigh at this time as to his qualifications.

MR. SCHULMEISTERS: I have just one question, Captain.

With the U.S. Lines, did you ever sail into Casablanca?

THE WITNESS: No, sir.

MR. SCHULMEISTERS: Did you ever sail into any other Moroccan port?

THE WITNESS: No, I haven't.

MR. SCHULMEISTERS: Did you sail into any other French colonies?

THE WITNESS: Only the French main.

MR. SCHULMEISTERS: Thank you. No further questions at this time.

Q Captain, I have a chart here which is in evidence as Defendant's Exhibit D, which is the chart that Captain Hansen was using on the Potomac at the time he stranded. I would like to ask you some questions about that chart but I don't want you to put any marks on it.

I have a copy of it which we could mark in red pencil if we want to identify anything.

MR. SCHULMEISTERS: Your Honor, during the depositions we have been using copies. Of course, this is very much like the other copies but they are pasted together and I would point out to you, your Honor, that they are not necessarily exact to scale.

THE COURT: All right.

MR. SMITH: I would like to have this marked as Plaintiff's Exhibit 102 for identification.

MR. SCHULMEISTERS: One more thing, your Honor. Do I have an understanding that if I use copies you will have no objections either?

MR. SMITH: No.

(Plaintiff's Exhibit 102 marked for identification.)

THE COURT: I am confused. I thought we got all this business out of the way. What's the difference between this and Exhibit D?

MR. SMITH: This is a copy of Exhibit D, your Honor. I want the Captain to put some marks on the chart but I don't want him to mark the original chart.

THE COURT: All right. So this is nothing but a copy of Exhibit D.

MR. SMITH: That's right.

THE COURT: All right.

Q Captain, did you at my request examine that chart yesterday?

A Yes, I did.

Q Would you tell the Court, explain to the Court, what you found on that chart with respect to the entrance to Casablanca between the jetee and the buoy?

MR. SCHULMEISTERS: Excuse me, your Honor, may I go over there and see what he is pointing to?

THE COURT: Yes.

Q I think it would be best if you looked at the copy and if you need to refer to the original, if it is not clear or something, just flip it up.

A For one thing, this chart shows a six-fathom curve around the jetee, identifies a six-fathom curve around the jetee and the work in progress area.

Q Would you outline that six-fathom curve around the jetee?

MR. SCHULMEISTER: Your Honor, may I just say one thing: If he is going to go over it with a pencil, then that will be obliterated and if we make a copy of it subsequently it will come out as a solid line.

THE COURT: In any event, I don't know why we have

to make these markings. The chart shows what Captain Wadleigh just described. Why does he have to mark it? Unless he puts a great big circle around it which wouldn't obscure anything. We are just wasting a bt of time on picky, picky details where we don't get the Captain to get to what you really want to ask.

May I suggest that you just mark a big circle arou' it and I can find that.

Q Would you put a circle around the area that you said had the six fathom curve on it. Make it heavy so that it will copy.

MR. SCHULMEISTERS: What the witness is doing is what I just objected to, going right over the six-fathom curve.

THE COURT: You don't need to do that. That's the point of my saying a circle. Honestly, you make it more difficult. Just put a big circle so that one can go to the area and see right away where the jetee area is.

MR. SMITH: Your Honor, I will put a circle around it, if the court please.

A I see what you mean.

Q We will mark that circle as A.

MR. SCHULMEISTERS: Now we have the six-fathom curve obliterated for--

THE COURT: Yes, stop quibbling, will you? We are just getting nowhere. You are taking all the appeal out of this presentation. I told you what to do. I can read charts. Let's get down to something sensible.

Q Captain, what does the depth for the water show between the buoy which is marked CA-5 and the six-fathom curve which you just identified?

A 0[illegible]9 fathoms.

Q How many feet would that be?

A 54 and 56 feet. Better than 54.

Q Did you at my request read the U.S. Hydrographic sailing directions yesterday?

A Yes, I did.

Q As a master mariner, Captain, if you were approaching Casablanca with a ship, with a draft of 33 feet, how would you proceed into the harbor ?

MR. SCHULMEISTERS: I object, your Honor. Frankly, I don't think this Captain is qualified to say that, answer that question, because he just testified he has never been to Casablanca and there has been no testimony yet about compulsory pilotage area, although, of course, I mentioned it in the opening statement and I don't think--

THE COURT: I think there's quite a different

problem. I don't accept your reasons stated for this. I am aware of the fact that he's never been there, but the question bothers me. It seems to me it is an unfair question from the point of view of the proponent and of Captain Wadleigh. It's a meaningless question. It's totally unmoored, if you will. It relates not one wit to what has happened. I don't see how the Captain can sensibly answer that without a few more preliminary matters.

Q Captain, as master of a vessel, if you were scheduled to go into Casablanca, what would you do navigationally to prepare for your approach and entrance into Casablanca? Would you describe that for the Court, please? Assuming that you had never been there before.

A Basically study the sailing directions, go over the charts that would be in use, look at the tide and current tables and determine where the pilot station was.

Q First of all, did you determine from the sailing directions where the pilot station was?

A In one set or the other I did. It's buoy CA-5.

Q When you say one set or another, did you look at other sailing directions besides the H.O. sailing directions?

A Yes, I did.

Q Which one did you look at?

A The British Admiralty and a copy--a translation of the French sailing directions.

Q What do you interpret that to mean as to the position of the pilot station?

A That the pilot will board weather permitting at buoy CA-5.

Q Did you find anything in the sailing directions, the H.O. sailing directions, with respect to which side of the buoy that a vessel approaches on?

A No, I didn't.

Q Do you know from looking at that chart which side a vessel should approach from?

A From looking at the chart, the approach could be from either side.

Q Why do you say that, Captain?

A Because the depths marked on the chart are sufficient to float the vessel on either side of the buoy with a margin of safety.

Q Is there any indication what system of buoyage is used on that chart?

A No, there is not.

Q Do you know today or did you know yesterday

before looking at that chart what system was used in Morocco?

A No, I didn't.

Q Could you find out from that chart?

A No.

Q Could you find out from the sailing directions?

A Not the ones issued, that the Captain had on board this ship at the time.

Q When you looked at the French sailing directions, what did you find in there, Captain?

A That navigation between the buoy CA-5 and the end of the jetee--

MR. SCHULMEISTERS: I object, your Honor, unless he first qualifies him as being able to read French.

THE COURT: I don't quite know how to answer that, but apparently, first of all, Captain Wadleigh, you did read the French sailing directions at some point?

THE WITNESS: The translation, yes, sir.

THE COURT: The translation?

THE WITNESS: Yes, sir.

THE COURT: And you read that yesterday, I gather?

THE WITNESS: Yes, sir.

THE COURT: All right. I take it that translation is the one we have in evidence?

MR. SMITH: Yes, that's 101, your Honor.

THE COURT: All right. Now, as I understand it, based upon what you understood the translation to say, vessels couldn't proceed between CA-5 and the end of the jetee?

THE WITNESS: Correct, sir.

THE COURT: All right.

Q Did you find that prohibition in the H.O. publication?

A No, I didn't.

Q Did you find it on the chart?

A No, sir.

Q What does that area which is marked, "Prohibited anchorage," indicate to you in the vicinity of buoy CA-5?

A Just what it says. You are not allowed to anchor in that area. It indicates that it's the traffic--not necessarily the lane, but there's ship movement and you are allowed to move freely in that area.

Q Captain, we have here Plaintiff's Exhibit 13 in evidence, which is a French chart issued in June of 1971. What is the difference between the French chart, which is of Casablanca harbor, also--

DHpa Wadleigh-direct 25

MR. SCHULMEISTERS: Objection, that's a bit too broad, your Honor. If it's a French and American chart, of course, obviously there are differences, but I think he should direct what general area he is talking about.

MR. SMITH: I didn't finish the question, your Honor.

THE COURT: Yes, that's the problem I have. He hasn't finished.

Q With respect to the French chart in the vicinity of the jetee and the buoy, Captain, is there any difference between the French chart and the H.O. chart, Exhibit B?

A One difference that I noticed yesterday was the extension of the red sector lines from the lighted aids to shore out past the prohibited anchorage line, the southern prohibited anchorage line, whereas on the American chart those lines run only a short ways from the shore, maybe a half--less than half the distance, about half the distance, to the breakwater.

Q What do those red lines indicate to you as a master when you look at them on the French chart?

A That these two red sectors meet in that area, and if you were approaching at night you would definitely see it; but even in the daytime with this triangle drawn, it would

draw your attention sharply to the fact that it is a danger area.

Q With respect to the breakwater, is there any difference between the French chart and the American chart?

A For one thing, the six-fathom curve is not on the French chart. There's a little discrepancy in the length of the work in progress between the two charts.

Q Is it longer or shorter on the French chart?

A It's longer.

THE COURT: When you refer to the breakwater, I take it you mean the jetee in question.

MR. SMITH: Yes, your Honor, I use those two terms interchangeably and the jetee we refer to is identified on the American chart as Jetee Delure; it's written on the north side of it. On the French chart it's identified as Jetee Moulay Youssef and also in parenthesis, Jetee Delure.

MR. SMITH: Mr. Schulmeisters, do you have the pilot chart, the one with the buoy system on the reverse side?

We have here the pilot chart, which has been previously identified as McLoud Exhibit B which we would like to have remarked as McLoud Exhibit B. There are some duplications in the letters so we will have to use it.

THE COURT: Let's mark this 103.

(Plaintiff's Exhibit 103 marked for identification.)

MR. SMITH: I will put on the record, your Honor, that it was previously marked as McLoud Exhibit B on his deposition.

THE COURT: All right. What exactly is this chart?

MR. SMITH: This is a pilot chart that was produced by the U.S. for the purpose of showing buoyages and beaconage around the world, and I am just going to ask Captain Wadleigh a couple of questions about pilot charts.

MR. SCHULMEISTERS: May I just add one comment, your Honor. This is one of a series of charts.

Q Captain, what is the purpose of a pilot chart?

A It's a broad explanation and study on the face of it for showing currents at different seasons of the year, wind velocities at different seasons of the year.

Q How often is the chart issued?

A It's a monthly chart, I believe. It might be a quarterly but I am not sure because it's been 13 years since I have used it. I believe it's a monthly publication.

Q Is it a chart that is used from year to year or are new charts issued each year?

MR. SCHULMEISTERS: I object, your Honor, unless the question includes whether he is talking to him as a pilot or as a mariner sailing in certain foreign countries or just going coastwise or what.

THE COURT: Well, you puzzle me. I don't see the significance of that. The question puzzles me. What are we going into all this for? What's the significance of this? Either the chart is of some use, on which basis I would think you would stipulate it in and then ask whatever it is you want to ask. It seems like a cat and mouse game we are playing for no great end.

Q Captain, are these charts kept on board as a permanent record?

A They are updated. What I mean to say is they are not one--one issue doesn't come out and you keep that forever. The charts are updated for every month of every year. Some are kept in some ships and it's up to--a new master may come along and say, "We don't need the old ones because the new ones coming out will suffice."

MR. SCHULMEISTERS: Your Honor, I think this thing should go into evidence since he has questioned him about it. Do you have any objection?

THE COURT: That isn't necessarily the controlling test; but, in any event, since I don't think either of you disagree, let's put it in evidence.

(Plaintiff's Exhibit 103 received in evidence.)

MR. SMITH: I have no further questions of the witness at this time, your Honor.

THE COURT: Al right.

CROSS EXAMINATION

BY MR. SCHULMEISTERS:

Q Captain Wadleigh, had you ever read the sailing directions for Morocco prior to yesterday?

A No, I hadn't.

Q When you sailed for U.S. Lines, did you find different buoyage systems in Europe as distinguished from the system in the U.S.?

A I don't recall any difference.

Q Does the coloring of a buoy mean anything as to on which side it should be passed?

A It is supposed to mean something, yes.

Q What does it mean in the U.S.?

A Well, we have a rule which you use if you are returning to port, you keep a red buoy on your port hand--I mean on your starboard hand and the black one on your

port hand.

Q Have you ever heard the expression red, right return?

A Yes.

Q That means that a red buoy is left on your starboard side when entering port; is that correct?

A Correct, yes.

Q How did you get your first license, did you go to any school?

A Yes.

Q You went to Fort Trumbull?

A Yes, at that time.

Q Do you recall a publication sometimes referred to as Bowditch?

A Yes.

Q Would you agree with me that that is a so-called bible for navigators?

A That's one of the publications. I don't call it the bible for navigators because it is being updated all the time. There are other publications coming out. It used to be the bible, I will say that.

MR. SCHULMEISTER: Your Honor, this has previouslybeen marked as Defendant's Exhibit B for identification. I would like to have that marked again,

please.

THE COURT: Do you have a previous mark for this?

MR. SCHULMEISTERS: Yes, B. It should be the same one, Defendant's Exhibit B.

THE COURT: All right.

THE COURT: What's the title?

MR. SCHULMEISTERS: The title is, "American Practical Navigator."

THE COURT: Navigator?

MR. SCHULMEISTERS: Navigator, yes, and the author is--actually it's called Bowditch, but he's the original author.

THE COURT: All right.

MR. SCHULMEISTERS: This is a 1958 edition.

THE COURT : I am with you now, all right.

Q Do you know, Captain, the name Bowditch other than this particular book?

A I know a scooner that went to the North Pole by that name. No, I am sorry. I don't know that name in any other connection.

Q You don't?

A No.

Q But you do recognize the book as a text, do

you not?

A Yes, I do.

Q Would you please turn to pages 976 through 982 and tell me, please, what you find there.

Generally, what do you find between those pages?

A This is a description of the buoyage system, U.S. system, uniform system, uniform lateral system. How far did you want me to go?

Q Well, I think you have mainly answered my question. It does include the various systems of buoyage around the world, does it not?

A I am not sure it's around the world or how broad the scope is. It describes three different systems, yes.

Q All right.

THE COURT: Mr. Schulmeisters, would you take a recess very briefly here. I have to hear a short application in another case.

MR. SCHULMEISTERS: Surely.

(Recess.)

* * *

(In open court.)

THE COURT: All right, gentlemen.

BY MR. SCHULMEISTERS:

Q Captain Wadleigh, when you sailed for U.S. Lines about 17 years, did you then know that almost all your European countries, and I am talking about northern Europe, around the English channel, in that area, where you said you navigated, that almost all of those countries had buoyage systems where a black buoy was to be left on the starboard side when entering?

A I didn't know that, no.

Q And you sailed for 17 years?

A Yes.

Q Do you know now that that is a system in Europe still?

A Pardon?

Q Do you now know that that same system still exists in Europe?

A No, I don't know that.

Q Did you check any of that out before you came and testified here today?

A No, I didn't.

Q When you were navigating, did you check out what system of buoyage the country had to which you were going?

A Yes.

Q So at some time you must have checked out what

the system was in France, for example?

A Yes, that's true. I don't recall though.

Q If I suggest to you that in France a black buoy is to be left to starboard when entering, would you disagree with that?

A I wouldn't disagree with it, no.

Q Did you read the English sailing directions before you came here today?

A No, I didn't. Not recently, that is.

Q When was the last time you read them?

A Probably in 1955.

Q Would you disagree with me if I said to you that the English sailing directions don't contain an absolute prohibition against passing between CA-5 and the breakwater?

MR. SMITH: Objection. The sailing directions are in evidence and they speak for themselves.

THE COURT: I think, however, the point is based on the Captain's reading, but I don't think he said he read those.

Did you read the English sailing directions which these gentlemen have put in evidence this morning?

A I read them quickly yesterday, your Honor, but I can't distinguish one from another at this point.

THE COURT: All right.

Q Captain, let me refer you to Plaintiff's Exhibit 13, the chart that you reviewed. Does that show anywheres--this is the French chart now--does that show anywheres on which side buoys should be passed?

A I don't see anywhere that it does show, no.

Q Captain, let me show you another chart, have you ever seen that?

A I don't believe I have.

Q Would you read this on the bottom, as to by whom that was issued?

A This is published at the Admiralty, the British Admiralty.

Q In your sailing, with the U.S. Lines to England, did you ever consult British Admiralty charts, did you ever use them?

A Very rarely.

Q But you did use them, right?

A I expect we did. I wouldn't say. I don't know.

MR. SCHULMEISTERS: Your Honor, I would like to mark this chart as a government exhibit and we can, of course, later have it identified by some other witness. It is a Brisish Admiralty chart which includes the harbor of

Casablanca.

THE COURT: What number should we give it?

MR. SCHULMEISTERS: Just one minute.

THE COURT: You both puzzle me. I thought we were going to use the exhibit numbers you used in the EBT's. It seems we are going to have quite a few things that weren't marked.

MR. SCHULMEISTERS: I think we will have some, yes.

THE COURT: Would we be safe starting with double A?

MR. SCHULMEISTERS: No, I think I am up to double J.

THE COURT: Well, I am glad I asked.

MR. SCHULMEISTERS: Double J is already included, so it should be double K.

THE COURT: All right. For identification as double K.

(Defendant's Exhibit KK marked for identification.)

Q Captain, British Admiralty charts are usually English, are they not?

A Yes.

Q Would you take a look at this Exhibit KK and tell

me, does it show anywheres on which side a buoy should be passed?

A I don't see anywhere that it shows. As far as printing it out; no.

Q Is it not true, Captain, that charts generally don't show on which side buoys should be passed?

A That's true.

Q So there's nothing wrong that that information is not on the American chart, is there?

A No, there's nothing wrong with that. We are speaking generally about buoys now?

Q Right.

A Yes.

Q Now, Captain, let me show you this double K again and let me direct your attention to the breakwater area, and let me as k you, is there a six-fathom curve on this chart or a similar depth sounding on Exhibit KK?

A Yes. There is.

Q Can we please just have that identified by an arrow? I hand you a black pencil. Would you please just draw an arrow in this direction and label that with the letter A, please?

A What do you want done?

Q Just identify that six-fathom curve.

A Oh, I see.

Q With the marking on there. Just put a letter A there, please. Thank you.

Now, would you please look at the lower left-hand side and tell me the latest year of correction of this British Admiralty chart that contains this same six-fathom curve.

A 1972.

Q Do you knowwhat these numbers following the 1972 mean?

A No, I don't.

Q Now, let me show you Defendant's Exhibit D. Would you please read on the right-hand side the dates of the surveys on which this chart, Exhibit D, was based?

A From French surveys to 1920 with an edition from a French chart of 1955.

Q Would you please go to the lower left-hand side and see if there is any reference to any British Admiralty chart.

A Yes. Chart number 860.

Q Is that Exhibit KK, 860?

A That's correct.

Q Do you know whether or not U.S. Defense Mapping Agency, or, as it used to be known, Hydrographic office,

makes surveys of Moroccan waters?

A I don't know.

Q Would you expect them to?

A That I couldn't answer.

MR. SCHULMEISTERS: Your Honor, this Exhibit R was previously marked during Captain Hansen's deposition and has been identified as a chart on board the vessel. I would like to put that into evidence.

THE COURT: Defendant's R?

MR. SMITH: No objection, your Honor.

THE COURT: Is it American, British, French?

MR. SCHULMEISTERS: It's American.

THE COURT: American chart?

MR. SCHULMEISTERS: American chart H.O.3776 or the number N.O. number 51220.

(Defendant's Exhibit R received in evidence.)

Q Captain, did you see this chart before you came to testify here today?

A Yes, I saw one like it, anyway.

Q Yesterday, right?

A Yes.

Q Now I direct you to the area--let me ask another question first.

What kind of a chart is this?

A It's a coastal chart.

Q Is it also called an approach chart?

A Well, not actually.

Q Let me direct--

A It might say so on the chart but I don't call it that. It's not an approach chart. It's too broad a scope.

Q Let me direct you to the area of Casablanca. Do you know there three buoys in line?

A Yes.

Q What is the seawardmost buoy?

A CA-1.

Q And the next one down is CA-3; is that correct?

A Right.

Q And the next one is CA-5?

A Right.

Q That's right off the breakwater, is it not?

A Correct.

Q And these buoys are in an almost direct north-south line, are they not?

A Yes.

Q Now, the color characters of CA-5 and CA-3, what is it?

A They are both black buoys.

Q With white lights, right?

A With white lights, yes.

Q CA-1 is the seawardmost one. What type of buoy is that?

A White.

Q Is it not white and black striped vertical?

A I am sorry, yes.

Q Now, black and white is what kind of a buoy?

A Well, it's a mid-channel buoy or a sea buoy.

Q That would be CA-1.

A Yes.

Q Would you please label that with the letter B, please? Draw an arrow away from it and label it letter B. Thank you.

A B?

Q Yes. That's the sea buoy, right?

A Yes.

Q Now, buoys CA-3 and CA-5 are solid black, right?

A Yes.

Q They do show on which side the vessel should pass, right?

A No.

Q By being a solid color?

A Not necessarily.

Q Is it not an indication to someone approaching Casablanca harbor of a method of entry?

A Yes, it's an indication, yes.

Q Now, you see here to the right of the letter B that you just marked previously, has been marked the letter R.

A Yes.

Q And there's a line. What does that line mean that has been labeled R.

A That's CA-5 almost on a range with two lights ashore on the Keys.

Q That is a range that passes south of CA-5 and to the east of CA-5?

A Yes.

Q On the other side of the breakwater side from CA-5.

A Right.

Q Would that be the entrance range?

A It could be for certain types of vessels or certain reasons coming down here.

Q Does that same range appear on Defendant's Exhibit D?

A Yes.

Q Would you not say that the right way of entering would be approaching that range and entering it close on the range leaving CA-5 to starboard by looking at these two charts together?

A I say this: For a novice that's the proper way to do it, yes.

Q Did you know that Captain Hansen had never been to Casablanca other than this particular trip?

A Only from what Mr. Smith has told me.

Q I refer you to Plaintiff's Exhibit 103 previously marked Defendant's McLoud B for identification. I refer you to the back of the chart. Does that say what type of buoy system is in Morocco?

A Yes.

Q All right. Does it say also that a black buoy should be left on the starboard side when entering?

A Yes

Q And a black and white can be left on both s ides, right?

A Yes.

Q So now looking at this Exhibit 103, and then if you go back to the buoy CA-1, CA-3 and CA-5, is it not so that you have to leave CA-3 and CA-5 on the starboard side on entering?

A Yes, according to knowledge.

Q What is the date of this Exhibit 103?

A March 1967.

Q As a general procedure, don't pilot charts contain useful information to navigators on the back as opposed to the front side where Mr. Smith talked about winds and currents?

A That's correct, yes.

Q On a vessel that is traveling in foreign waters, would you say a pilot chart containing the buoyage systems would be an important thing to be preserved?

A Yes.

Q Let's get back for a minute to Bowditch. When you were sailing, was a copy of Bowditch usually aboard the vessel that you sailed on?

A Yes.

MR. SCHULMEISTERS: Your Honor, I would like to offer Bowditch in evidence, please.

MR. SMITH: No objection.

THE COURT: We marked it previously.

MR. SCHULMEISTERS: Yes, it has been marked B for identification, I would like to mark it B in evidence.

(Defendant's Exhibit B received in evidence.)

Q Captain Wadleigh, if a master had on board a Bowditch, Exhibit B, and Exhibit 103, he would know what the buoyage system is in Casablanca, would he not?

A He would know if he had this chart, Exhibit B, whatever it is.

Q Exhibit 103.

A 103.

Q The pilot chart, yes.

A As far as the Bowditch is concerned, I don't recall.

Q But from Bowditch he would know there are different buoyage systems in different countries?

A Correct.

Q Shouldn't a prudent mariner having the information in Bowditch find out what the buoyage system is in the port he is going to?

A If it's available to him, yes.

Q But he should make an effort to find out, shouldn't he?

A He should, yes. Through Bowditch or through charts or through notice to mariners, whatever.

Q If a master has been sailing around the world, would you not expect him to have gathered that information?

A I don't want to sit in judgment on another master. I don't know whether he may depend solely upon the charts.

Q In your opinion don't you think this should be done?

A Eventually he should check up on it, yes.

THE COURT: I think you have made your point. Anything else?

MR. SCHULMEISTERS: Just a moment.

Q Captain, would you please compare, and I will hand you a pair of dividers, the distance of the underwater section of the breakwater, as shown on the British Admiralty chart, KK for identification, with Exhibit D, the American chart. You may have to do--

A What distance do you want now?

Q Take the furthest extension of the underwater section on the British chart--I think you can measure it probably from this dock here which has the accompanying light.

A 1350 feet.

Q All right. What would be the distance here on the American chart?

A About 490 yards.

Q Is it not almost exactly the same?

A What's the other one?

Q I don't recall the number that you gave.

A Yes, there's not too much difference. 1350 as against something around 100 feet difference, that's all.

MR. SCHULMEISTERS: Well, in order not to waste time, your Honor, I think subsequent more accurate measurements will probably show the British and the American charts almost identical.

Q Now, let me ask you this, Captain: I refer you now to page 219 of Exhibit H, which is the sailing directions which were on board the Potomac. Did you review that yesterday with Mr. Smith?

A The ones that were on board, yes.

Q The sailing directions.

A Yes.

Q Before we go there, would you measure on the American chart just the underwater portion of the breakwater?

A 275 yards.

Q Now, is there a reference in sailing directions, Exhibit H, on page 219 to the distance of the underwater construction of the breakwater?

A The underwater section, you say?

Q Yes.

A The outer extremity of the breakwater is submerged for a distance of 400 yards.

Q If a master was drawing into port for the first time, would you expect him to read that, sailing directions?

A Yes.

Q Would you expect him to know that he can't come anywheres near 400 yards from the breakwater?

A He can't come any closer than 400, that's for sure.

Q Did Mr. Smith show you where the Potomac stranded?

A I don't know exactly where she stranded, no. This mark, approximately, as far as I know.

Q It has a dot, does it not?

A Yes.

Q Would you measure from the dot to the visible portion of the breakwater, please?

A Yes. Just over 400 yards.

Q What's the beam of the Potomac, do you know?

A No, I don't.

Q Would it be somewheres around 75 feet?

A I would say so.

Q Approximately?

A I would say so, yes.

Q All right. A vessel 75 feet wide, would you not say that this is cutting a bit close coming that close to a 400 yard distance from the breakwater?

A If he understood this chart correctly, it was close, yes.

Q All right. If he read the sailing directions, it was too close, was it not?

A Yes.

MR. SCHULMEISTERS: Thank you.

No further questions.

THE COURT: Any redirect, Mr.Smith?

REDIRECT EXAMINATION

BY MR. SMITH:

Q Captain, if you know, is there any mention of a buoyage system for Morocco in Bowditch?

A I don't know.

Q You don't know. As a master, sailing on ocean-going vessels, did you make it a practice to save pilot charts?

A Not unless there was something specific that I was interested in.

Q Do all vessels have all pilot charts that are issued by the Hydrographic Office?

A Nearly all have current issues.

Q Current issues?

A Yes.

Q Is Captain Hansen a novice?

MR. SCHULMEISTERS: Objection.

THE COURT: I don't understand--

MR. SCHULMEISTERS: Has he met him?

THE COURT: I don't see how Captain Wadleigh could possibly answer that.

MR. SMITH: Captain Hansen is a master mariner and his testimony shows that, your Honor.

THE COURT: Yes, but--

MR. SCHULMEISTERS: I object.

THE COURT: But the point is I don't see how we can ask Captain Wadleigh that unless he sailed with him or knew him.

Q I will rephrase the question.

Is a master mariner, in your opinion, a novice?

A No

Q Is there a hard and fast rule that a buoy be passed on the side for which it is marked in color?

A No, there is not.

Q Have you been piloting and navigating vessels

A Around a thousand feet in length and you can take into Portland a 45 and a half foot draft.

Q Have you ever taken any draft larger than that into Portland?

A Not into Portland but into Hussey Sound, yes.

Q Captain, yesterday when you came into my office I asked you to read the sailing directions and look at the chart, and I asked you, after you did that, how you would pass into Casablanca harbor. What was your answer?

MR. SCHULMEISTERS: I object, your Honor. I don't think he's an expert of how to go to Casablanca, he's never even been there.

THE COURT: No, but we have a case here involving a master and his watch officer, both of whom concededly, as I understand it, had never been into Casablanca. Therefore, it seems to me not totally irrelevant to ask another mariner, who has never been into that harbor how he could go in.

However, I will sustain your objection on another basis and that is I do not understand what you are asking the Captain to consider.

MR. SMITH: As a master mariner, I am trying to put Captain Wadleigh in the same shoes as Captain Hansen. He had never been to--

THE COURT: Are you going to refer him to

specific charts or are we going to refer him to a specific set of sailing directions? We ought to know.

MR. SMITH: Yes. At the time, your Honor, I gave him two things, the two things that Captain Hansen had on the bridge of his ship.

THE COURT: Whatever that may be, you didn't mention those two things.

MR. SMITH: I am sorry if I wasn't specific enough.

MR. SCHULMEISTERS: In that case, may we also have the estimate?

THE COURT: He is going to start over again. Put your question again so we know precisely on the record what you are asking the Captain to assume he would be using.

Q Captain, I want you to assume as you did yesterday that you had the chart which is marked as Defendant's Exhibit D, the H.O. chart, which Captain Hansen had on board the ship at the time he was entering Casablanca, and the Hydrographic office sailing directions which have been marked as Defendant's Exhibit H, which you studied and read yesterday, and I ask you for your opinion as to how you, as a master mariner, never having been into Casablanca, would proceed into the port.

MR. SCHULMEISTERS: Objection, your Honor,

because I think some other circumstances have to be put in there. For example, the master never bothering to find out what the buoyage system is--

THE COURT: That's fine, but that point is so obvious to me, you have already made it, but--

MR. SCHULMEISTERS: How about the ship's characteristics, your Honor, and the weather conditions?

THE COURT: We are assuming a vessel of the characteristics of the Potomac, I assume, but--

MR. SCHULMEISTERS: The smooth sea, with a two to six foot swell.

THE COURT: Yes, yes, yes, please. Let's go back. Mr. Smith, you are inviting trouble like this. You are asking the Captain to assume at least the following, as I understand it: First, having looked at the chart, Exhibit D or known as 51222, also looking at the American sailing directions, Exhibit H, and also assuming the vessel with the same dimensions and characteristics including her load and draft as the Potomac; isn't that your question?

MR. SMITH: Yes, your Honor.

THE COURT: All right. Assuming all of that, Captain, you were asked to--

MR. SCHULMEISTERS: Your Honor, may I please

include the weather?

THE COURT: You can add that and ask him if it would make any difference, if you insist on it, but the weather you can raise yourself. This is enough, otherwise, we will never get to the end of this question. What is it you want to know?

Q How would you enter Casablanca with that?

THE COURT: Do you understand this with all the confusion, Captain?

A Your Honor, it's not a question that I can answer unless I know what the circumstances are, weather-wise, visibility, and so forth. Maybe I would change my mind at another time.

THE COURT: Very good, thank you.

Help him out further about weather including visibility.

Q The visibility was excellent, Captain. We might say it was unlimited. There was no sea but there was a swell running which has been described in various terms as from two to six feet.

THE COURT: What hour of day?

Q It was approximately, Captain, 3:30 in the afternoon, as the vessel approached. There was a vessel proceeding outbound and behind the breakwater, which the

Captain testified was on an apparent collision course, and there were sailboats in the vicinity close aboard the Potomac as she proceeded in.

THE COURT: Making all those assumptions, can yo answer the question, or is there something else you want?

Q Is there anything else you need?

THE WITNESS: Your Honor, I could answer all of these questions very simply, I think, because--if I would be permitted, because yesterday I came down here for a purpose, to see what the plaintiff's problem was. I was asked to review what information they had, what charts they had, and if I had any decision to make I reviewed what material was available, and assuming that's what the master of the vessel had available, I understood that he was late on his ETA, that it was daylight, the weather was not boisterous, that he assumed he would have a pilot on station especially being late with his ETA.

I note his approach to buoy CA-5, which is the pilot's station, and I see nothing wrong in approaching CA-5, which is the pilot station, rather than going to the black and white buoy. I see nothing wrong in the master's behavior up to the point of approaching CA-5 close aboard.

After that I don't know what steps the master took, what course he steered, what engine maneuvers he made,

and I assume that he knew where the vessel was. He didn't know there was an obstruction at the point of impact. As I say, up to the point of a very close approach to buoy CA-5, I see nothing wrong with what the master has done. Being a master with experience of--ten years' experience. Having been in and out of several ports, and if they were oil ports, they are not, some of them, very well developed, the more you sail, the more experience you gain, thereby gives you the right, by way of experience, to do things that an inexperienced person shouldn't do. This is my opinion. I assume that's what I was called here to explain.

Q Thank you very much, Captain.

THE COURT: Do you want to ask anything on this hypothetical, Mr. Schulmeisters?

MR. SCHULMEISTERS: I think the Captain just stopped with buoy CA-5 and it stops right there. I just have one thing.

RECROSS EXAMINATION

BY MR. SCHULMEISTERS:

Q Captain, you say you kept or would keep pilot charts if they had something specific on it.

A Something that is specifically interesting to me.

Q Would a mariner on a ship that goes around the world with the designation of types of buoy systems be

something specific of interest to you?

A Yes, but this master might not have been--

Q I am asking you.

A It's quite possible I would keep that chart.

Q Thank you.

MR. SCHULMEISTERS: No other questions.

THE COURT: Thank you, sir, you may be excused. Have a good trip back.

(Witness excused.)

THE COURT: Mr. Smith, may I make a suggestion to you primarily, although Mr. Schulmeisters might perhaps want to say something about it, too.

As we know, both of you are going to rely in part on deposition transcripts. It would be very useful to me, perhaps, if you intend to mark in whatever you intend to mark into evidence now so I can be reading it between now and our next session. Would that be all right?

MR. SMITH: That would be fine, your Honor.

MR. SCHULMEISTERS: I have also a few depositions.

MR. SMITH: Shall I start right from the beginning and go through?

THE COURT: Whatever you want to offer in the way of transcripts.

EMPIRE TRANSPORT, INC.,

vs. 72 Civ 2910 HRT

UNITED STATES OF AMERICA

10:00 A.M.

(Trial resumes.)

THE COURT: Now, I believe, Mr. Smith, there is common agreement that our first duty will be to hear from your witness from abroad, is that so?

MR. SMITH: Yes, your Honor. He is here and ready. Thank you.

Captain Lechartier, that's the last name, first name is Jean-Paul Jules.

J E A N-P A U L L E C H A R T I E R ,

called as a witness by the Plaintiff, having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SMITH:

Q Captain, what is your occupation?

A Well, I am 37 years old--

Q Your occupation.

A At the present time?

Q Yes.

A Yes, I am a marine officer.

Q Whereabouts are you a marine officer?

A I beg your pardon?

Q Whereabouts are you a marine officer?

A I am marine officer for classification companies over the world as American Bureau of Shipping, Lloyds Register and Norske Veritsa.

Q For what area?

A For Morocco.

Q Prior to becoming a marine office what was your--

THE COURT: Excuse me, I am sorry. Where is your main office?

THE WITNESS: In Casablanca.

THE COURT: In Casablanca. Forgive me, go ahead, Mr. Smith.

Q What was your occupation prior to becoming a marine officer?

A Well, I went to marine school in France, graduated officer, then captain. And I was also in the navy, and after reserves hool for officer and reserve school for diving I became an officer in command in the navy.

Q What rank do you hold in the French Navy?

A I have three stripes, equivalent of Captain.

Q Have you sailed on any French Merchant vessels?

A Yes, during some 12 years.

Q Do you hold any French licenses?

A Yes, I am Captaine Au Long Cours. This means the highest ticket you may obtain in the French Navy to be in command of the biggest vessels. No tonnage limitation.

Q How long have you been living in Casablanca?

A Six years now.

Q What did you do when you first started living in Casablanca?

A Well, I left the sea life directly for Casablanca and at the beginning I was working as manager of a shipping agency.

Q Before coming here today did you make an inspection of the Jetee Delure?

A Yes. This Tuesday morning before leaving for New York I went to inspect the breakwater Delure.

Q I have a chart here which has been previously marked as Plaintiff's Exhibit No. 13. Do you recognize that chart, Captain? (Handing.)

A Yes, it's a French chart.

Q What is the date of that chart?

A The date is June 1971.

Q Does that have the Jetee Delure on it?

A Yes, here. (Indicating.)

Q Captain, we don't want to mark this one up so I have got a copy that I have made of it so you can put some marks on it for the Court.

THE COURT: That is Exhibit what?

MR. SMITH: Plaintiff's Exhibit 13.

MR. SMITH: I would like to have this chart, you Honor, marked as Plaintiff's Exhibit 108 for identification.

THE COURT: Is this nothing more or less than a xerox of Exhibit 13?

MR. SMITH: It's a photostatic copy made by--

THE COURT: Well, we already have so much confusion with the exhibit markings that I really think that is going to confound things even further. May I suggest we mark it 13-A? You see, we are wandering all over the lot with our exhibit numbers. We made the mistake of following your practice in the EBT which we never should have done and I accept the blame for allowing that. But that is beyond us. Let's make this Exhibit 13-A.

(Plaintiff's Exhibit 13-A marked for identification.)

Q Captain, are there any identifying marks on the jetee itself?

A Yes, you have marks on the jetee in the stone.

Q What are they?

A Well, they show every fifty meters you have marks.

Q Every fifty meters?

A Fifty meters.

Q Did you observe one particular point as a reference point?

A Yes. Last Thursday I checked the position of the pilot station, the mark was 1650, in meters.

Q Would you put an arrow to that point and mark that on the chart?

A Yes.

Q Draw the arrow up to the north. Put an arrow on the other end now. Captain, put an arrow on the other end indicating the point that you observed. Now what was that marking?

A Yes, I remember that was 1650.

Q Would you label that 1650, please?

A Yes.

Q Did you make any other observations as to the indications that were on the jetee on Tuesday?

A Yes, I went to the extremity and I noted the last mark I could read, which was 3150.

Q Would you mark that, please?

A Yes. It's better if I note the previous mark I made--

Q All right, if you have another one put that down.

A Yes. 2900.

Q Now, would you put an arrow to that point?

A Yes.

Q What other observations did you make with respect to the marks that were on the jetee?

A Well, the last one is 3150, and then I checked, I measured 35 meters in the last stone of the breakwater.

Q And what was the measurement that you computed for the last stone of the breakwater?

A Well, I measured 35 meters. Meaning that the total length of the breakwater, in meters, is 3185.

Q Now, would you put on the chart where that measures?

A Yes.

Q Captain, would you measure the distance, or compute the distance between the jetee--

A Yes.

Q --where you have marked 2900, and the end of

the jetee itself?

A Yes. 300 meters.

Q How many?

A 300.

Q Would you now--

MR. SCHULMEISTERS: Excuse me, that was on deposition--

THE COURT: I don't think it helps matters, Mr. Schulmeisters, your opponent is asking the questions. Now if you have some--

MR. SCHULMEISTERS: I just wanted the position which he was measuring.

THE COURT: It's not very clear already and your interruptions are not helping matters for anybody, most importantly perhaps your client. Now, let's get down to whatever this is. Go ahead, Mr. Smith.

MR. SCHULMEISTERS: I apologize, your Honor.

Q You measured 300 meters from the 2900 mark on the first jetee there?

A Yes.

Q To the end of the Jetee Delure, is that correct?

A Yes. Of the construction.

Q Of the construction itself.

A Yes.

Q All right. Now, Captain, I have here a chart which has been previously marked as Defendant's Exhibit D, which is in evidence, and I would like you to measure on that chart, in meters, the distance from the same position at the jetee perpendicular to the main jetee and see what the distance is there. (Handing.)

MR. SCHULMEISTERS: I will have to make an objection. I don't think Exhibit D has a meter scale on it.

MR. SMITH: I think it does.

THE COURT: Well, perhaps--

THE WITNESS: Yes.

THE COURT: Look, gentlemen, this is not an examination before trial. This is a trial. Now, your subjective views are not necessary, and I insist we adhere to some rational pattern, Mr. Schulmeisters. You have made an objection and I think I ought to be allowed to rule. Now, we can simply get at this, Mr. Smith, if you will ask the witness who certainly knows better than all of us whether or not this is scaled in meters, which I suspect it is, but let's find out from him. I have never heard such nonsense than the way we go on in this case. Now, let's get at it in an orderly lawyer-like way.

A 210.

Q 210 meters?

A Yes.

Q What is the difference between the length of the jetee, the Jetee Delure, from the 2900 mark on the French chart, Exhibit 13-A, and the American chart, Exhibit D?

A The difference is 90 meters.

Q Which one is longer?

A This is the longer one.

Q You are referring to the French chart, 13-A?

A Yes.

Q Did you also, Captain, at my request, make an underwater survey of the area between the jetee and buoy CA-5?

A Yes. Last July. I have been diving in this area from the buoy, I took the tape on top, the course, the bearing of the breakwater, and under the water, on the bottom I followed my way towards the breakwater extremity. I had a compass, water-tight compass, and a depth meter.

Q Will you tell the Court what you found on that inspection?

A Well, arriving--

MR. SCHULMEISTERS: Your Honor, may I make an objection? I think this testimony is the survey was in July '73.

THE COURT: Yes.

MR. SCHULMEISTERS: We are talking about 1972, the incident.

THE COURT: I understand your point, but I am going to take it subject to connection because I don't really anticipate what this is all about beyond that point you just made. Go ahead, Mr. Smith.

Q What did you find, Captain, on your underwater survey?

A So, arriving in the middle of my way of my swim on the bottom, I notice the depth, I see big blocks, not rocks, but blocks, old blocks, you see, with seaweeds, and I measure the depth here and after correction I found that the depth, if we refer to our system, was 9-- 8 to 9 meters of depth in this area. That was about at the middle, a little less than half of the distance. And I measured that when I came up, I had my supply boat and took good bearings on the shore, I did a good position of that place.

Q Could you put that position on the chart now?

A Yes.

Q All right, would you do that, Captain, please?

A Yes.

Q Did you make an inspection--let's put an arrow to that and mark it, "Position A", Captain. "A" as in Alpha.

A Alpha, yes.

Q Did you make an inspection between position "A" and the end of the breakwater?

A Yes.

Q What if anything did you find in that area?

A Well, arriving at some 300 yards, 250 to 300 yards from the breakwater, I found also rocks with the depth reducing progressively to the surface.

MR. SCHULMEISTERS: Would you repeat that?

A The bottom here is less important.

THE COURT: I am sorry, Captain, I didn't get that. The bottom is what?

THE WITNESS: The bottom, the depth is less important. Far less important, it's around 6 meters.

THE COURT: In other words, walking or swimming from point A to the actual part of the jetee which is above the water--

THE WITNESS: Yes.

THE COURT: --the depths there gradually narrow to

something around 6 meters?

THE WITNESS: Yes. It's not regular, you see.

THE COURT: Yes.

THE WITNESS: The bottom is like this.

THE COURT: Curved.

THE WITNESS: Curved, and at 250 yards it goes up.

THE COURT: I see.

Q You have lived in Casablanca since 1967. Have you seen any construction during that period of time, on the jetee?

A No. They never made any sort of work at this place.

Q Do you have any personal knowledge of the stranding of the Potomac?

A Yes. I was in the port of Casablanca when the ship came in and stranded.

Q Where were you?

A This day I was on an aircraft carrier, French aircraft carrier moored alongside in the port, and I have seen Potomac arriving on roads.

Q What were you doing on the aircraft carrier?

A Well, as I am a reserve officer I was on board for a training period.

Q What did you observe of the Potomac as you were on the aircraft carrier?

A This day was a Saturday, and people could visit the ship, and as I was attached to the safety department I had to stay, I received orders to stay on the main deck, on the landing deck. So from that place I was about 30 meters over the sea level, and I had a good view on the roads.

Q Was the Potomac moving at the time you first saw her?

A Yes. I know this ship because I have seen in the funnel a big "O" meaning Ogden Marine, the owners, and this is a big ship, this is one of the biggest kind of ships you may have in the port of Casablanca so you notice it. And I have seen it arriving in about half a mile of the breakwater.

Q Could you put an approximate position on the chart as to where you first observed the Potomac?

A Well, I tell you half a mile about. We can measure this.

Q All right, would you put a mark now at the approximate place you observed her?

A Yes.

Q Now, would you mark that, "Position B"?

A Yes.

Q Did you observe the Potomac after that time?

A Yes. I looked at the ship and she was coming in, was going towards the buoy.

Q When you say towards the buoy, could you estimate her course?

A Well, she was--her course was on the buoy.

Q Her course was on the buoy?

A Yes.

Q Approximately in degrees what was that course?

A From that place between 110, 130.

Q From 110 to 130?

A Yes. It's difficult to know exactly.

Q Captain, from your experience in the port, how do vessels approach from the west in the daytime?

MR. SCHULMEISTERS: Objection, your Honor. I think we need a little more than that.

THE COURT: I am sorry, I am going to sustain the objection because I don't understand the question frankly. Rephrase it.

Q Captain, have you observed other vessels approach Casablanca harbor in the daytime?

A Yes.

Q Have you observed them approach from the west?

A Oh, yes, sure. So when they arrive from the west, meaning from the ocean, they proceed by daylight--

Q Just one second now. I will ask you another question. Mr. Schulmeisters wants to object to it. Would you read the last question and answer back please?

(Record read.)

Q How do these vessels approach Casablanca from the west?

A When they arrive from the west and--

MR. SCHULMEISTERS: Objection again. What size vessels, what type weather conditions, etc.

THE COURT: Well, again I don't know, apparently the force of the question, to the extent I understand it at all, is generally where do vessels from the west approach in the roads? Which, if Mr. Smith thinks this is important for some reason, it can only be preliminary because the accident didn't happen just because of the approach generally from the west. But he must be leading up to something, I hope, and I will allow it.

Q You may answer that question now, Captain.

THE COURT: Generally speaking, in other words, Captain Lechartier, is there some general pattern that

vessels come down roads into the harbor?

THE WITNESS: That's how I understood the question.

THE COURT: Yes.

THE WITNESS: When the ships are arriving this way, from the west, so they proceed to the buoy because they have--

THE COURT: Are you speaking of CA-5?

THE WITNESS: CA-5, yes. This buoy. Because they have to--the pilot is boarding here. So they come to pick the pilot and get in.

THE COURT: All right.

Q Now, as I understand it the pilots board at buoy CA-5, is that correct?

A Yes. Yes, they attend the ship here.

Q How close to buoy CA-5 and in what direction from the buoy do they board the vessel, sir?

A They generally board the vessels south, at 100 to--between 100 to 200 meters. South of the buoy.

Q Do you know if there is anything in the French sailing directions about where a pilot will board a vessel?

A Well, I have been practicing in the port of Casablanca and we know that they board it at CA-5, and in the south.

Q But my question was do you know if there is anything in the sailing directions, the French sailing directions--

A Oh, yes, it's written down.

Q I have here an exhibit number 16 which is a French sailing directions, could you find that in that, Captain? (Handing.)

A Yes. Do I have to--

Q What is the paragraph number?

A --translate that?

Q Is there a paragraph number first of all?

A Yes. This is 25.

Q Paragraph 25?

A Now, this is the number of lines you see, so this is between line 22 and further.

Q All right. What does it say, Captain? Will you translate that for us?

A Well, they say for the pilot--I translate just the interesting sentence here. "Pilotage is essentially harbor pilotage. The pilot has to embark on board the vessels in the shelter of Jetee Delure and you may call the pilot through international signals."

Q All right. Now, Captain, from your experiences in Casablanca which side of buoy CA-5 do vessels generally

pass when you are approaching Casablanca?

A When you are coming in you embark the pilot on the port side.

Q On the port side. But which side of buoy CA-5 does the inbound vessel approach buoy CA-5? Which side do you keep the buoy on?

A You keep the buoy on the starboard.

Q Now, what is the--why do vessels approaching keep the buoy to starboard?

A Because it's a starboard buoy. A black buoy.

Q Is there any other reason why vessels approach Casablanca in that manner?

A Is there any other reason?

Q Yes.

A I don't--

Q Can you hear the question?

A No, could you repeat, please?

Q Is there any other reason, other than the black buoy, that vessels approach Casablanca with the buoy on the starboard side?

A Well, in the sailing directions they say, if I remember at this time, it's forbidden to proceed between the buoy and the breakwater.

Q Could you find that particular paragraph and

translate it for us, Captain?

A It's forbidden to proceed between this buoy, meaning CA-5, and the breakwater.

Q What page is that on, Captain?

A This is page 183.

Q And on what line?

A Line 36 and 37.

Q Would you turn back to the other reference that you made and give us the page and line for that one with respect to the boarding of the pilot?

A Yes. For pilots it's also page 183, and lines 26 to 29.

Q All right. Now, Captain, getting back to your observations of the Potomac from the deck of the aircraft carrier, what did you observe of the Potomac as she proceeded toward buoy CA-5?

A At the time I have seen the Potomac she was coming in at a slow speed, a reasonable speed, and a ship was leaving the port at a fairly good speed, so that the Potomac altered her course a little bit on starboard because--how do you call this--it was a collision course, you know, between the two vessels. And I think the Captain of the Potomac altered his course on starboard to get free from the other vessel, to pass on the stern.

Q Did you observe any other vessels in the area at the time?

A Yes, there was a lot of vessels anchored on the outer roads.

Q Would you indicate that area by drawing a mark on it as to where those vessels were anchored?

A Yes.

Q Or, if you would like, some other symbol.

A Generally speaking--

Q Yes, just generally speaking.

A Maybe five or six in this area. (Indicating.)

Q Would you label that, "Anchored vessels"?

A Yes. I can't tell you exactly how many vessels there was.

Q You say you can't tell?

A I can't tell exactly. I would say outside about five or six, and inside the road about six to ten in this area. (Indicating.)

Q Now, would you mark that one, "In the roads"?

A Yes.

Q Were there any other vessels underway?

A Yes, at this time there was a sailing competition for small sailing ships and there was a lot, and they were making their competition between the CA-5 and CA-3,

and there was also some others in this area (Indicating), near the--between CA-5 and CA-3.

Q All right.

A I can't give details.

Q Did you observe at any time the pilot boat?

A The pilot boat was at that time in the inner road. Certainly she had disembarked the pilot of the ship leaving her and she was going out, I think, to take the Potomac, her course was to this area. (Indicating.)

Q The pilot boat's course was to the area of the pilot station?

A Yes.

Q Approximately where was it when you observed the Potomac approaching buoy CA-5? Could you put a mark on the chart?

A Not a mark. I can give you an area.

Q All right, just draw a general area then. Now, would you mark that area "C"?

A Yes.

Q C as in Charles.

MR. SMITH: In addition to the C, the Captain has written into the area, into the ellipse that he has here, "Area pilot boat."

Q Now, after you observed the Potomac alter her

course what was the next thing if anything that you observed as to the Potomac?

A Well, as I said, I have seen the Potomac altering her course to get in, and she came in with buoy CA-5 a bit on the port side, and then I have seen the vessel stop. And so I look at it with more currency and after awhile I notice that they were moving the propeller.

Q You could see that they were moving a propeller. How could you see this?

A Well, on the surface, you see the propeller wash.

THE COURT: Excuse me, Captain, but I am confused. A moment ago I thought you said that you observed the Potomac come in at a reasonable speed and then because apparently she and an outgoing vessel, going rather fast, were on an apparent collision course you said you saw the Potomac go to the starboard of CA-5. My confusion is that you just this moment as I understood you say that the Potomac came in a bit to the port side of CA-5. Per haps my confusion is that you said she came in with CA-5 buoy a bitto her port.

THE WITNESS: Yes. You see, when speaking of the vessel I say she comes on the starboard and then I said she had the buoy on the portside.

THE COURT: I understand. Thank you.

Q Captain, would you put a mark on the chart as to where the Potomac was when you observed her with her wheel wash?

A Well, I estimate the distance between--that was between about--half of the distance you see between the buoy and the breakwater.

Q Approximately in the position that you have marked "A", is that correct?

A Yes.

Q When you were making your survey last July what type of a chart were you using?

A Well, this chart was too small for my work to have good results on the bearings, so I used a big one published by the--not published, made by the public works giving particularities of the funnels and some bearings on the shore. This one was not enough.

MR. SMITH: I have no other questions, your Honor.

THE COURT: Do you have any cross examination, Mr. Schulmeisters?

MR. SCHULMEISTERS: Yes, I do, your Honor.

THE COURT: I am a little puzzled. It seems to me that this witness might be said to verify everything

you claim. But, at any rate go ahead.

MR. SCHULMEISTERS: If I may just have a few questions.

THE COURT: Oh surely. But before you begin, Mr. Schulmeisters, if I may interrupt.

Captain, this being a Saturday do you have any recollection first as to the weather, and then the condition in the roads? Was there any moderate sea, or swell?

THE WITNESS: I remember perfectly because my wife came to the aircraftcarrier with the children, and they had no big pullovers, it was a beautiful day.

THE COURT: So that visibility was ideal, or virtually perfect?

THE WITNESS: Oh, very good, yes. Perfect.

THE COURT: And was there any swell that you recall at all?

THE WITNESS: No. Sea was calm. In Casablanca roads you always have half a meter of swell.

THE COURT: There's been some evidence here suggesting out beyond the pilot buoy that there was a swell running anywhere from two to six feet. Would that seem to you an excessive estimate?

THE WITNESS: Two to six feet? Six feet is a lot.

THE COURT: That's a lot of swell it seems to me.

THE WITNESS: No, a little less.

THE COURT: Less? All right.

THE WITNESS: It's difficult, but you see it depends when you speak of the general swell of the roads, and the swell you may have in this area.

THE COURT: No, I understand you and I am really talking about out in the approach, quite a way away from the inner harbor. In other words, well outside the pilot buoy.

THE WITNESS: In the vicinity where the pilot boards.

THE COURT: And even to the north and west of the pilot boarding, where I know--

THE WITNESS: You said two to six, I translate into meters. Well, I should say around one meter.

THE COURT: All right. Very good.

THE WITNESS: Three, three and a half feet.

THE COURT: I understand. Thank you. Forgive me, Mr. Schulmeisters.

CROSS EXAMINATION

BY MR. SCHULMEISTERS:

Q Captain Lechartier, in this survey that you made

and found these rocks--

A Yes.

Q --that you testified to, they are not shown on any French chart are they?

A No.

Q Do you know whether they are shown on any British chart?

A British?

Q British.

A British chart? I don't know. I don't think so because nobody knows there is these rocks.

Q Did you advise any Hydrographic office of the existence of these rocks?

A I spoke with people of the public works, but remember I am a foreigner in Morocco and I have not to interfere in their affairs.

THE COURT: You don't by any chance recall the name of the outgoing vessel that you described?

THE WITNESS: No.

THE COURT: Do you know her flag, do you recall her flag?

THE WITNESS: No. I didn't notice it, you see. And from the place where I was, I just see this vessel from the stern. But if you need it, I think maybe it's

possible to find.

THE COURT: Oh, I think so. I was just interested in if you could recall.

Q Captain Lechartier, you mentioned that you observed the Potomac's course to be between 110 degrees and 130 degrees. Did you ever tell me that the course was 60 degrees? As you observed it.

A Well, you see, when you are in here the vessel is coming in. (Indicating.) When I was here, the vessel was coming here, my impression was 120, 130. It's a question of looking you see. She was coming from the west, you see, I am sure.

Q Would you mark here on this Exhibit 13-A please, where your carrier was?

A Yes. Do you want the name too?

Q No, no. Would you label that position "D"? D as in David. I don't think we have a D on this chart yet. Let me ask you again: Do you recall, did you ever tell me that the course was 160 degrees?

A When we talked together last time?

Q Yes.

A I don't remember.

Q Let me show you a chart, Captain. Do you recollect ever having seen this before? (Handing.)

I show you some pencil markings and some other markings.

A So what is your question?

Q Do you remember seeing this chart before?

A Oh, yes. Yes.

Q And the markings on here, were they made by you?

A I don't remember. Well, after six months I remember when we were talking we were using an amount of charts, now it might be yes, my--you see according to this--

Q By this now you are referring to one half MV^2 circle?

A Yes. But maybe, you know, I am not sure.

Q Now, in the area northwest of buoy CA-5 do you see some pencil markings that appear to have been erased?

A It's difficult.

Q For the most part.

A It's difficult to see, you know.

Q Can you see this, can you see that? Do you see any pencil markings at all?

A I see all marks and somebody use--

Q An eraser, right?

A I can't read anything now.

Q Good. Now, Captain, Do you remember-- you remember this chart as the one that was used when we

discussed this matter with Mr. Smith in a hotel in Casablanca?

A Yes, I remember this too but I can't tell you whether this is the chart we really used. It was a chart of this type and maybe it's this one, maybe it's another one.

Q Now, I am interested in the markings that appear to be over here. (Indicating.) Do you remember that you made some marks showing the approximate approach by the Potomac at that time?

A Well, when we were talking I was using a pencil, yes, that's true.

Q Do you remember whether those things were erased that day also when we were in that hotel?

A I beg your pardon?

Q Do you remember that those marks were erased at the conversation?

A Erased?

Q Yes.

A No, you see for me that was--I can't say if it's very important because that was a talk with a drink, that was not a conversation.

Q Captain Lechartier, is it not a fact that you made those approach marks and that afterwards Mr. Smith insisted on erasing them and in fact did erase them?

Is that not true?

A I don't remember. We were--I was playing with my pencil, yes, I remember, and maybe it was--

Q You do not remember now anything being--

A Well maybe,--you see honestly speaking I cannot tell you. We had the poncil, we had the rubber, you use it, I use it, Mr. Smith use it, that's all.

Q As far as erasing it is it not true that Mr. Smith was the only one who was doing the erasing?

A Mr. Smith has been erasing, but maybe you and me. Do you remember yourself?

Q I am quite sure I did not erase any on here.

MR. SMITH: Objection.

THE COURT: Well, if that is meant as a question I doubt it, and I will sustain the objection.

MR. SCHULMEISTERS: I don't want to clutter up the record, your Honor, but I think maybe we ought to mark this chart as Exhibit LL for the government.

(Defendant's Exhibit LL marked for identification.)

Q Captain Lechartier, at that time in Casablanca did you ever tell me that you observed the pilot boat in different areas than where you marked it on the chart here?

A You see, honestly I don't remember what I told you at this time. Maybe you took some notes, I didn't. Forgive me, that was a drink and a talk.

THE COURT: May I suggest, Mr. Schulmeisters, that this is really not a very important item, and whatever significance it may have you have already made.

Q Now, you marked these anchored vessels here. You have shown the vessels heading east and west, have you not?

A Yes.

Q In what direction was the swell on that day, do you know?

A I just remember the bow was turned to west or northwest, to that direction, you know.

Q You say the north or northwest?

A I think so.

Q That would be a little more northerly than what you have drawn on here.

A Maybe. You see the mark I put now that was just you asked me, or Mr. Smith asked me to put the area and I put marks.

Q Now, the area that you marked for the pilot boat, it's an area that stretches over 1,000 meters, is that right, approximately?

A Yes, yes,because the question was at the time of the--the Potomacwas coming in so I can't tell you at this minute the pilot boat was here, there and there, so I put a big area.

Q Did you ever discuss with anyone the position of the pilot boat as observed by a Mr. Decnob?

A Discuss with somebody at Casablanca?

Q Either at Casablanca or here in New York. You know who Mr. Decnob is, do you not?

A Yes.

Q Did you ever discuss anything that he may have estimated as to where the pilot boat was when the Potomac stranded?

A No, I talked with him of the accident but we never talked of the position of the pilot boat. I know that--maybe he knows better than I do because he was on the breakwater, of the extremity as far as I--

Q Approximately in the position that you have marked 3185?

A Yes, in this area.

Q Do you know what the tonnage of the Potomac is approximately?

A Gross tonnage or the dead weight? Gross tonnage?

Q Just gross tonnage.

A Between 15--15,000, around 15,000.

Q And how about dead weight?

A Dead weight might be 25.

Q About 25.

A And the length, 80 meters. About.

Q As far as the pilots of Casablanca are concerned do they not usually communicate with a vessel prior to boarding it?

A Yes. The vessel calls the pilot either by signal or by radio.

Q And then the pilot tells them ready to board, is that right? If they have a "VHF" or a radio?

A Yes, they may be informed also by their representative, by their agent.

Q Now, as far as the anchored vessels go do they also anchor in the area where you have marked position B?

A For the Potomac?

Q Yes, is that also an area where the vessels anchor off Casablanca?

A Yes, generally they anchor in this area, and some others in the north.

Q In other words a little bit north and a little west of the position that you have marked as position B, is that right?

A Well, west, compared to this position they anchor east, north.

Q But also on the west too they also anchor?

A No, not there.

Q You say they do not anchor in the area of position B?

A Northward, yes.

Q A little northward of it. Okay. Fine. Now, when these vessels get underway is it not a fact that pilot boat often comes out, goes east of buoy CA-5 and boards those vessels north of it?

A Outside?

Q Yes.

A No.

Q You have never seen it?

A No. And I even can tell you through my experience that when you want to ask the pilot to go north, northbound off the buoy, even half a mile north, or one mile, you have to request them.

Q As an officer do you often deal with port authorities?

A Do I often deal with port authorities?

Q Yes, the port authorities of Casablanca.

A Yes, from time to time.

Q Do you know a Commandant Mere?

A Yes, I know him.

Q Have you had correspondence with him?

A Oh, yes.

Q Would you recognize his signature?

A Maybe.

Q Would you recognize this as Commandant Mere's signature?

A Yes, it's more or less his way of signing. I cannot testify, but it's his way of signing.

Q How about on this space here?

A Yes, that would be more him.

Q More like him. How about this seal?

A It's a seal from harbor master.

Q A seal from harbor master, Commandant Mere, is that right?

A Yes, no doubt.

MR. SCHULMEISTERS: I would like this document received in evidence, your Honor, it's in French and we have a translation too.

THE COURT: Well, let's have them both marked.

MR. SCHULMEISTERS: Your Honor, we have a translation which can be ripped out and--

THE COURT: Excuse me. What is this that you want marked?

MR. SCHULMEISTERS: These are the Moroccan regulations.

THE COURT: All right, we will mark this Defendant's Exhibit--

MR. SCHULMEISTERS: Double M. And the translation I can either take a page out here of the official translation or maybe we can use a copy.

(Defendant's Exhibit MM marked for identification.)

THE COURT: There is no point in pulling it apart. Why don't we deem that Exhibit MM-1?

MR. SCHULMEISTERS: MM-1.

(Defendant's Exhibit MM-1 marked for identification.)

THE COURT: Now, did I hear you say you objected to all this, Mr. Smith?

MR. SMITH: Well, your Honor, I haven't seen it, and--

THE COURT: No, I am not criticizing you. I thought I heard you object.

MR. SMITH: Yes, I did, your Honor.

THE COURT: If you haven't seen it maybe you had

copy. In the recess I can give it to you, I have to look for it.

(Defendant's Exhibit MM-1 received in evidence.)

Q You mentioned that you used another chart for the survey that you made. Do you have it with you?

A No, I did not use it. I used this chart to report the bearing, because the scale is bigger, but it's not a marine chart,you see.

Q Do you have it with you?

A No. No. It's big.

Q Do you know whether the Casablanca harbor authorities have any further plans for extending that jetee?

A Yes, this is not new. At the time the French were handling the harbor they were prepared to extend this breakwater to the metric point 3400.

Q And they still have those plans to do that?

A Yes, I think so. It's a question of money.

Q As far as upkeep of a jetee have you seen the local authorities, or someone, dropping rocks off the end of the jetee?

A I am sorry, could you repeat, please?

Q Have you seen rocks being dropped off the end of the jetee?

A Being dropped? Myself, no.

Q Yes, speaking of blocks, big blocks, like the one you found underneath.

A No. I haven't seen people dropping blocks.

Q You have not.

A No.

Q At no time?

A No. They haven't been doing this for years. These rocks are in--the good blocks and the ruined ones are in place I think for a couple of years.

Q The part which you have marked 3185, would you say that's a completed construction, is that right?

A Yes.

Q And then still further to the northeast can you see rocks in the water?

A 3185 is the last regular construction perpendicular, yes. And at low water at the foot of this place you see some rocks, yes, going down.

Q Do not some of them also stick out at high water?

A Maybe yes.

Q And here on the northwest side of the jetee there are all rocks, are there not?

A Yes.

Q So that can be seen also at high water?

A Yes. So now I--we can see certainly some rocks on this side also.

Q By this side you mean now the--

A Northeast.

Q --northeast in the direction of buoy CA-5.

A Yes.

Q So approaching this area you can't see rocks going into the water even at high water.

A Yes, now on this place on the northeast just like south, the protection is less important than on the northwest part. The extension of the northwest part is very important, about 20, 15 meters and here it might be about five meters.

Q But of course some of those rocks are visible at high water?

A Yes, I think so, yes.

Q That's at the end of the jetee?

A I can say yes.

Q Do you know what the theoretical speed was for the Potomac when she is proceeding at so-called slow speed? Do you know what it is? For the Potomac do you know what the speed through water is when she is proceeding at the so-called slow speed, or 40 revolutions?

A To what speed does it correspond?

Q These factors that you mentioned, are they not taken care of by the slip?

A I do not understand this word, the slip. Could you explain me?

Q All right. When you were sailing in the merchant marine, every day did not the engineer prepare a theoretical distance by revolutions?

A Oh, yes.

Q And that is calculated by a formula--

A Yes.

Q --which reads, pitch of the propeller, times the revolutions--

A True.

Q --times 60.

A True.

Q --over 6080, right?

A More or less.

Q Which is the number of feet in a mile.

A Yes. We do differently, but it might be the same way.

Q And then when that is compared with the distance traveled as observed by navigator you come up with a slip, right?

A Oh, this means slip. Okay.

Q You understand now.

A Okay.

Q Now, if I gave you the picture of the propeller and the revolutions, and also the slip as compared from the ship and the ship's log book and as testified to by her master would you be able to figure out then the speed, the theoretical and what the speed should be, the actual--

A Yes, more or less, but I think--

THE COURT: Anything else?

MR. SCHULMEISTERS: No, I think that will take care of that. Let me just one more moment look at my notes if I may.

THE COURT: Yes, you may.

MR. SCHULMEISTERS: All right, no further questions.

THE COURT: Any redirect, Mr. Smith?

MR. SMITH: Just one question, your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. SMITH:

Q Who requested you to meet with Mr. Schulmeisters in Casablanca? Do you understand the question?

A Who requested--

Q You to meet with Mr. Schulmeisters in Casablanca? Do you understand the question?

A I understand. I do not remember exactly. Maybe it was the ship's agent, Mr. Decnob, or you. Or you. A meeting was arranged just for--somebody said we have a drink all together, and maybe you said that, you introduced to these gentlemen.

MR. SMITH: That's all.

THE WITNESS: Yes, I remember now.

THE COURT: Before you go, Captain, may I ask you what part of France were you born and raised in?

THE WITNESS: Yes, I was born in Normandy near Le Havre.

THE COURT: I wondered. Thank you very much, you may be excused. We will take a recess at this point. Oh, perhaps before we do that do you have a witness, Mr. Schulmeisters?

MR. SCHULMEISTERS: I do have a witness, yes.

THE COURT: I believe we are in agreement, Mr. Smith that this completes--

MR. SMITH: Your Honor, since that last session something else has come up as a result of testimony that was given here the other day and the master of the Potomac is due back tomorrow and I would like to have him appear

in Court and testify to the Court--

THE COURT: You know from several years experience with me that I don't sit on trials on Friday. And this came up specifically the other day. I have other things to do tomorrow.

MR. SMITH: Well, your Honor, he is available at any other time.

THE COURT: Oh fine. But I am just making the point that tomorrow--

MR. SMITH: I didn't plan on having him in tomorrow unless the Court wanted him in.

THE COURT: No, no. I can't because I have--

MR. SMITH: I understood that.

THE COURT: I thought you were saying--

MR. SMITH: But I can hold him here until you are ready for him.

THE COURT: No, no. If you want to have him come in on Monday morning--

MR. SMITH: Fine.

THE COURT: At 10:00.

MR. SMITH: And I have the master who was on board the vessel immediately prior to Captain Hansen who will take about 15 or 20 minutes and that's all.

THE COURT: What will he offer?

making a federal case out of all of this. But in any event let's not debate that. We'll take a recess now and resume in ten minutes.

(Recess.)

* * *

(In open court.)

THE COURT: Mr. Schulmeisters.

MR. SCHULMEISTERS: I will call Mr. McLoud.

C H A R L E S R. Mc L O U D , called as a witness by the defendant, having first been duly sworn, testified as follows:

MR. SCHULMEISTERS: Before I proceed, your Honor, I have a copy of it that we can mark Exhibit MM-1, the translation.

THE COURT: Thank you.

(Defendant's Exhibit MM-1 marked for identification.)

Q Mr. McLoud, by whom are you employed?

A Defense Mapping Agency, Hydrographic Center.

Q That is the successor to the Hydrographic office and whatever names they had?

A Naval Oceanographic Office and formerly the Naval Hydrographic Office.

Q What is your present position there?

A Chief of the Sailing Directions Branch.

Q How long have you held that position?

A Seven years. Between six and seven.

Q Prior to that were you employed again by the same agency?

A Correct.

Q What was your position then?

A I was the deputy head and acting head of the Nautical Information Branch.

Q For how long were you that?

A Four to five years.

Q Did that have anything to do with Notice to Mariners?

A Yes, Notice to Mariners was a section within that branch.

Q A section underneath it, is that right?

A That's correct.

Q And prior to that what did you do?

A I was the head of the pilots chart--pilot chart section.

Q For how long?

A About three years.

Q Prior to that what did you do?

A I worked in the various sections of the division.

Worked in writing Notice to Mariners for awhile, worked in Pilot Charts Section, writing sailing directions, writing pilot chart articles.

Q All told--

A Just about every job within the division.

Q All told how many years have you been with the Defense Mapping Agency?

A 23 years.

Q What did you do prior to joining the Defense Mapping Agency?

A I worked for the Pan American Company as an officer on the S.S. Ancon, Second and Third Officer. Two years right after the war I worked for the Panama Canal Company during the conversion of their passenger ships back into passenger ships.

Q Do you have any licenses issued by the Coast Guard?

A Chief Mate's license.

Q And prior to that did you have other licenses?

A Yes. Second Mate and Third Mate.

Q And prior to obtaining licenses what did you do?

A I went to--graduated from the Massachusettes Maritime Academy.

Q Were you ever in the navy?

A Yes, in World War II.

Q What positions did you hold there?

A From ensign to lieutenant-commander.

Q Did you ever act as a navigator?

A Yes.

Q Tell me please what is a sailing direction as it is understood in the Defense Mapping Agency?

A Sailing directions are a series of nautical documents, there are 65 of them--69 originally, now reduced to 65, each one of which carries a specific geographic area of the world. They provide information which is not shown on the charts, further explain what is on the charts, they contain information on meteorological conditions, oceanographic conditions and any other information which would affect the safety of navigation that cannot be displayed on the chart, all designed to assist the mariner in making a safe voyage from port to port, from pilot station to pilot station.

Q All right. Now, the sailing directions, do they deal with any United States ports?

A No. The national ocean survey produces the coast pilots for the coast of the United States and its possessions.

Q So sailing directions only deal with foreign

waters?

A Foreign waters.

Q Other than the sailing directions what else does your section do?

A We produce another series of books for naval use only called the Fleet Guides which provide essentially the same information, although in greater detail for the various naval bases in the United States, both foreign and domestic. Areas that the navy is interested in. Produce the table of distances, produce the world port index, prpviding information on the ports of the world, separate publication, and several series of classified material.

Q Do you also have to produce light lists?

A Light lists are produced in the Nautical Information branch.

Q Generally the light lists covering foreign waters, what are they intended for?

A They are intended to give the mariner information on the lights. Once again, up to the pilot station. We don't attempt to give all the buoyage, the inside lights needed for harbor navigation.

Q Why is that?

A Well, the books could be too voluminous, there

would be too much material in them, and the main intent is once again to give them to the pilot--to the pilot station, give them enough additional information on main lights that they could enter in an emergency. We don't try to duplicate everything.

Q Do you also--let me rephrase that. Do any radio warnings issue from your office?

A Yes.

Q What are they?

A We have two series, two main series called the Hydrolatch and the Hydropack series. The Hydrolatch means radio navigation warning message in the Atlantic area and the Hydropack is radio navigational warning for the Pacific area. These are broadcast twice each day over the navy and picked up by various commercial and other stations throughout the world and re-broadcast.

Q Has the Defense Mapping Agency or any of its predecessors ever made a survey of Casablanca harbor?

A Not to my knowledge.

Q On what does the Defense Mapping Agency rely for getting information on an area like Casablanca?

A Area like Casablanca we rely on the previous French publications, charts, and also the British have a good collection network and a high reputation. Now, of course,

since Morocco has its independence we have to start relying on the Moroccans, but so far there's been little that's come out of Casablanca authorities, coming into the office. Most of it is still basically from the French. We consider the French the primary--still consider the French the primary Hydrographic authority for that area, and the British Admiralty is the secondary authority.

Q How are sailing directions prepared? Or maybe I should say, kept up to date, or, updated.

A Updated. This is after the new edition is prepared and in effect. There is two ways; we have a new edition program and we have a change program.

Q All right. Let's just take first of all a new edition program.

A A new edition--

Q Will you explain that, please?

A Excuse me?

Q Would you explain the new edition program, please?

A A new edition is the complete re-compilation of everything that goes in the book for that specific geographic area. Right now we are undergoing a change in the whole thing, but I won't go into that . The normal way of doing it is the writer, the man who is assigned the task of

doing this goes and collects all the information that he can from the area. All the charts, all the foreign documents, the foreign sounding directions, the light lists. He gets all the meteorological information, oceanographic information on the area. He gets all the reports we have in the office on the area including intelligence reports. He goes and collects a great mass of data, everything that he can get his hands on and begins to rework this and work it into a new publication. Essentially a new edition is a complete rework of all the information we have available, including foreign, United States sources, private sources, public sources, intelligence sources.

Q Approximately how many documents does a man review when he is making a new edition, or working on a new edition?

A Including all the various letters, reports and so forth, three to four thousand.

Q Now, I have specific reference now to Exhibit H of the sailing directions which is HO Publication 51. When you say three or four thousand documents he reviews, would that be in connection with just this volume or a volume like it?

A Yes, this or a similar volume.

Q And all together you said you have 69 books and you are coming down to 64, is that right?

A Well, 64 right now. We eventually hope to get it down to 43 within the next five to seven years. Reduce the whole mass of material.

Q Now, this HO Publication 51, when was the last time that a new edition was made?

A 1952.

Q How fast are new editions usually made for a certain book?

A Well, prior to going into our new--this new program we have just launched on, we produced about two new editions a year.

THE COURT: Excuse me. I am puzzled. I thought you said the last edition was 1952.

MR. SCHULMEISTERS: Right.

THE COURT: But then you say that you have been producing two new editions a year. I don't--

THE WITNESS: Yes, sir.

MR. SCHULMEISTERS: Two new editions out of 69, your Honor.

THE COURT: Mr. Schulmeisters, please.

MR. SCHULMEISTERS: I am sorry.

THE COURT: Sorry I couldn't hear you, Mr. Schulmeisters was talking. You said what?

THE WITNESS: Approximately two a year we were

turning out. In other words it would take us about 35 years really to get a complete set of new editions.

THE COURT: Oh, I see--

THE WITNESS: The program was very slow.

THE COURT: I am glad I asked because the record would be totally confused on this point. In other words what you are saying is that number 51 is the last--the last time that was new was in 1952 but others of these 64 or five sailing directions of course are worked on each year.

THE WITNESS: Yes, sir.

THE COURT: Andyou just haven't had a chance to get around to the area covered by 51.

THE WITNESS: Correct, sir.

THE COURT: All right. Now, Mr. Schulmeisters, this shows something that I would like to observe to you gently, and that is though I quite frankly agree this is interesting, shouldn't we get down closer--

MR. SCHULMEISTERS: Yes, now I have the other one, the change part.

THE COURT: All right.

Q Now, would you distinguish from a new edition, a change of a book, please, and explain what that is?

A Yes. A change--we produce change pages in an

effort to keep the books up to date, and when the man works on a change he takes all the information that he has in his possession that has come into the office since the new edition was written, or since the last change was issued, and when he is assigned to go ahead and produce the new change he collects all of this information, gets it out of the records, out of the files or the archives or wherever it may be stored and works on this material alone.

He doesn't really do an in-depth study, he doesn't go further unless there is a conflict in the information that comes up. He uses the new material that came in since the last one. And wherever there is anything that affects the safety of navigation he uses the book.

Q As distinguished from a change, in the new edition, the books are translated are they not, the new edition?

A Foreign books that are in a foreign language, for a new edition, yes.

Q As for changes, are they translated?

A Normally, no.

Q Why not?

A We normally don't have enough money to do it.

THE COURT: You clientele presumably mostly are U.S. , in any event, or English speaking.

THE WITNESS: English speaking. Most mariners have an English speaking capacity. We do have some ability to look into--to different matters as far as translation is concerned within the office. And this we do, if there was real conflict, real change in an area we would have a translation done for the area, or for that specific document.

Q How fast are these changes made?

A We try to get out changes every two to three years. Once again this varies on the area. For example, for northern Russia we don't really worry about getting them out every two or three years because we don't have any ships going out there. So every ten years is plenty for that place.

Q When was the last change made of this book HO-51, Exhibit H?

A Change 13, 14 March, 1970.

Q Now, Exhibit 15, which is French 1970 sailing directions, by looking at the volume, can you say when this book was closed out, the French book? (Handing.)

A July 1970.

Q That's July 1970?

A Correct.

Q So that would be after the close of change 13,

is that right?

A Yes.

THE COURT: When you say this was closed out in July 1970 what do you mean, Mr. McLoud?

THE WITNESS: There was no information that came into the possession of the French that entered into this book after July of 1970. This is when they sent it to the presses, this is the cut-off date.

THE COURT: All right.

Q That would be similar to the cut-off date that you mentioned in the change 13?

A Correct.

Q All right.

A In other words, the information up to 14 March 1970 is what went into this change. What came in after that--

Q Then approximately how soon thereafter do you receive a book like the 1970 sailing directions?

A The book? After they close it out it then has to go and has to be typed, composed and come back, and be edited back again then it has to be printed and then it has to be distributed and it would be, in general, it's nine to twelve months before we get it from the French Hydrographic Office.

Q Would it be correct to say then the Exhibit 15 would not have been in the possession of the Hydrographic Office--

MR. SMITH: Objection.

THE COURT: He hasn't finished, but of course you are right in anticipating that you know what he is going to say. But you were stumbling a bit. Put the question so the record is clear.

Q When change 13 was completed for HO-51 was Exhibit 15, the French 1970 sailing directions in possession of Defense Mapping Agency?

A No.

THE COURT: Excuse me, but perhaps I didn't understand you yet. What I think you really meant to ask, but I don't think you asked it, was whether or not DAI had in its possession Exhibit 15 or a copy thereof when change 13 was made.

MR. SCHULMEISTERS: Correct.

THE COURT: Well, obviously the answer to that I would think is no. So let's not belabor that one. We are wasting a little time aren't we in such rhetorical questions?

Q Do you know, was a full translation ever made of Exhibit 16?

A No, we never did make a full translation of it.

Q Why not?

A It was received in the Defense Mapping Agency after the new edition was written in 1952, and we wouldn't normally translate the entire book until we were going to work on another new edition. And that ofcourse, wasn't scheduled and hadn't been done. And the reason of course, is obvious because now there is another new edition of the French in 1970 and the translation of this would have been of no use to us at all. If we were about to bring out a new book, a 1970 book, we would have translated it.

Q Let me show you a document that has previously been marked McLoud Exhibit A. Can you identify it, please? (Handing.)

A This is the bibliography for change 13 to HO-15.

MR. SCHULMEISTERS: I would like to have that marked as Government's Exhibit NN, your Honor. (Handing.)

(Defendant's Exhibit NN marked for identification.)

Q Now, this Exhibit NN--

MR. SCHULMEISTERS: I would like to have it in evidence, your Honor, if I may.

THE COURT: Any objection, Mr. Smith?

MR. SMITH: No objection, your Honor.

(Defendant's Exhibit NN received in evidence.)

Q What does this Exhibit NN contain? (Handing.)

A It contains a listing of the sources that were used as the authority for various statements, sentences, passages and pieces of information that were entered into the change.

Q Would that show all the documents that were reviewed in preparing change 13?

A No.

MR. SMITH: Objection. There's not a proper foundation for that question.

THE COURT: In any event I don't think Mr. McLoud is a witness that needs to be led by counsel. It just isn't necessary, or helpful.

Q Would you please explain the procedure that is used in your office in compiling a change?

A In relation to the use of the bibliography--

Q No, just the procedure. Just the procedure first.

A Oh, the procedure. Well, there is information comes into the office through the years from various areas of the world, various new charts and publications, etc., all of these are recorded into the branch and any information that it looks like it could be used in the compilation of a new edition or change is recorded on the record card. When the man begins his work on the new

change he takes this card and gets all of this information, he calls it back from the records or archives or the library, wherever it may be reposited. He then makes a compilation of all this various material. Anything that he's going to use in the change is then entered in what we call the bibliography, that shows where it came from, and he labels that, one for example in the book, the first new information he puts into the book, he labels that one so he can look in the book and the record copy of the book, one, here's one, it gives you the authority for that change that is going into the area. Information that he looks through and decides that he can't use, doesn't enter into this record. This bibliography for example, for this change, there is 609 pieces of material were used in the preparation of the change, were charged against change 13. There were various other ones that weren't used because there wasn't anything specific in them that created a change--a change in the text.

Q Now, would you please explain the difference, if there is any difference, of examination of documents when a change is made as opposed to a new edition?

A Yes, a new edition of course is much more voluminous, in new edition work if one document leads you to another document you go delve further into the other document, you make more of an in-depth study of the whole

thing. In either case where there is conflicting information the man then of course goes to other sources to try to resolve the difference and make a reasonable judgment on what should be in and what shouldn't be in.

Q Is that same thing also done with a change, when a change is done?

A If there is--yes, if there is a conflict in information.

Q And if there is no conflict of information?

A He accepts what is there. Once again, it's source, what the source is, what the reliability of the source is, the man's judgment through the years, what he's found to be true and not true. Many factors, judgment factor comes in--

Q About how long does it take to prepare a change?

A On the average about three months.

Q Is there a difference between the treatment of a document and the treatment of a book that comes into the office?

A Yes.

Q Would you explain it, please?

A Documents have file numbers and are assigned, they have a letterhead, they are put on a route sheet,

what we call a route sheet and are distributed to various departments that may have some interest in them. Whoever has the primary interest will get it first for example, secondary--people with secondary interest would get it later on. And this is assigned a number, it's kept in the file room for a certain length of time thereafter, sometimes permanently. Books, charts, foreign books and foreign charts and so forth because of the great volume of them and the fact that different areas of their prime interest are not logged in in this fashion, they are merely sent by the mail room directly to whoever is going to use them and they are not logged in as such.

Q Do you have in your office, the Defense Mapping Agency, someone who speaks every language of the world?

A No.

Q How are charts kept up to date?

A Charts?

Q Charts updated?

A After they are issued?

Q Yes.

A They are corrected through the weekly notice to mariners.

Q When a new foreign chart comes in do you know what happens to it?

A Yes, it's logged in, logged into the chart library.

Q Please explain what happens.

A Explain what the chart library is?

Q No, please explain what happens with the chart.

A Then it goes to the cartographers and a chart comparison is made between the new foreign chart and the comparable HO chart that we have on issue. They compare it for any differences, anything that is changed in the new chart from what we have on our chart. The list is made of this, it's then sent to the Notice to Mariners Section, the Notice to Mariners people look the change over, decide what in their judgment they feel affects the safety of navigation, if it does affect the safety of navigation, it's then issued as a Notice to Mariners to make an official change in the chart. If it appears to be incidental, secondary, it's marked up for miscellaneous correction to be corrected on the next printing of the chart.

Q Let me show you Exhibit 13.

MR. SCHULMEISTERS: Your Honor, this of course is the photocopy, the original is down in Washington.

Q Who made, if youknow, the blue marks on that

chart?

A A cartographer from the nautical chart branch--division, rather.

Q Now, let me show you what has previously been marked Plaintiff's Exhibit Uber 14, for identification. Do you know what that is?

A Yes.

Q Please explain.

A Report from the cartographer to the Notice to Mariners delineating what differences he found between this new French chart and the chart we have on issue and recommending--these are the areas where changes were to be made.

MR. SCHULMEISTERS: I would like to offer that one in evidence, your Honor. Plaintiff's Exhibit number 14.

THE COURT: That will be Defendant's Exhibit OO for identification, is that right?

MR. SCHULMEISTERS: This is already marked as Plaintiff's Exhibit 14. This could stay as Exhibit 14. We don't have an Exhibit 14.

MR. SMITH: It's not in yet.

THE COURT: I see. Again we are continuing this system which I regret we started but we might as well follow through. Plaintiff's Exhibit 14 will be received.

MR. SMITH: No objection, your Honor.

THE COURT: What is the date of that?

MR. SCHULMEISTERS: The date of this one here is 11 February 1971 when it was first made out and then there is a subsequent review of it, I think which the witness will explain on December 8, 1971.

THE COURT: All right.

(Plaintiff's Exhibit 14 received in evidence.)

MR. SCHULMEISTERS: Oh, I am sorry, your Honor, it's 11-2, it's November 2, 1971. I apologize. It's November 2, 1971 when it was first made out and a subsequent review was December 8, 1971.

THE COURT: Thank you.

Q Do you know what was used for the comparison of this Exhibit number 13?

A The master standard.

Q Can you identify this document that previously has been marked Plaintiff's Ellis number 8? (Handing.)

A Yes, this is the master standard for HO chart number 3777, that's the old number.

Q That's the old number. Right.

MR. SCHULMEISTERS: I would like to offer this one into evidence, your Honor. This has also been testified to on a deposition that was already put in.

THE COURT: All right. I can't say no but I would certainly like to know what we are doing here.

Q What do these blue circles with lines represent on Exhibit number 13?

A They identify where a change--where there is a change between what we have in our chart and what's on this new French chart, or on this French chart.

Q By our chart--

MR. SMITH: Excuse me, your Honor, I can't hear the witness.

THE COURT: [illegible], I agree, Mr. McLoud, it's hard for people I understand to get so absorbed and Mr. Schulmeisters' right on top of you but you have got to speak so that everybody can hear. Even I, and I am only four feet away, I am having trouble hearing you.

THE WITNESS: I am sorry, I will speak up.

A The blue lines circle areas where there is a change between our chart and the new French chart, the lines lead down into the boarder and identify and are cross-connected with the numbers on Plaintiff's Exhibit 14. One is identified back and forth with the other so it could be easily identified.

THE COURT : Excuse me, I am sorry. Mr. Schulmeisters couldn't hear either, so I don't know the--

next thing is important.

Q Is there a notice to mariners, request or suggestion, or recommendation, in connection with the end of the breakwater?

A No.

Q All right. Where did the chart and this recommendation Exhibit 14 go after it was through with the cartographer ?

A It went to the Notice to Mariners where one of the Notice to Mariners compilers made a determination of what affected the safety of navigation. That it affected the safety of navigation, specifically two changes in depths were written and published as Notice to Mariners in Notice to Mari ers number 1 in 1972.

Q What about the others?

A The others he made the notation, "Make miscellaneous," and in our parlance this means this could be held, it didn't affect the safety of navigation and it would be put on the next time the chart itself was reprinted.

THE COURT: Mr. McLoud, I am confused here still. What did you mean when in response to Mr. Schulmeisters' question you said there is no--there was no notice in one of these notices to mariners respecting the end of the jetee?

I assume first of all you are referring to Jetee Delure, but did I get you right, the end of the jetee?

THE WITNESS: Yes, sir. On the end of the jetee there is a blue circle. And it didn't lead down, there was no notation on here referring to this blue circle on the end of the jetee. When the cartographer made it, he simply circled it to show that there might be a slight difference in there but he didn't think it was of enough importance to write a notice to mariners or take any further action at that time.

THE COURT: All right, I see. Thank you.

Q Mr. McLoud, as a chief of Sailing Directions section and also having been in charge of the Notice to Mariners section for a number of years do you think that difference shown by this blue circle on Exhibit 13 requires a notice to mariners?

MR. SMITH: Objection. No proper foundation for that question, your Honor.

THE COURT: Well, I don't quite understand. Why not? He's been in both sections and he's the chief.

MR. SMITH: He worked on neither the chart nor the--

THE COURT: I know but he is only being asked to give his opinion, on the basis of a long practice and

responsible positions in both divisions which would have something to do with this and now he is chief of the sailing division.

MR. SMITH: He hasn't testified that he reviewed anything except looking at the chart.

THE COURT: It's very easy. He can review it right now. But I assume you have checked the two charts so you can see the nature, or extent of the difference in question, can you not, Mr. McLoud?

THE WITNESS: Yes, I have checked them both previously.

THE COURT: All right. Well, on that basis I think there is a basis for his opinion for whatever it is worth. Go ahead.

Q Would you answer that question, please?

A If I could have the question again, please?

(Record read.)

A No.

Q Why not?

A It's very infinitesimal, very small. It's merely a further extension of work in progress which is clearly labeled on our chart and on the French chart as work in progress. There was no real significant change. It's in the sailing directions that there is work in progress,

work is going on in the area, the thing has been extended. And in addition the red sector on our chart and on the French chart at that time come to the end of the work in construction, it doesn't extend out beyond that, I don't believe.

Q Now, the--

A In other words, there is not a significant change. The old sector line extended, came out here, this came out a little.

Q You are referring now to Exhibit 8, is that right?

A Correct.

Q Now, would you please mark this old sector line that you are talking about on Exhibit 8 with a letter "A" please?

A Yes.

Q Thank you. Now, looking at Exhibit number 14 there is an area with some handwriting on the right-hand side circled in green.

A Correct.

Q And there are some initials on the bottom. Do you recognize those?

A Yes, Richard Smart, Notice to Mariners compiler.

Q How long have you known Mr. Smart?

Q Does that port guide include only Casablanca or some other ports?

A No, it includes practically all ports of-- French ports, the old French colony ports.

Q Who publishes that French port guide?

A It's privately printed in Paris.

Q Is that any French government publication?

A It's not a French government publication. It's an unofficial publication, but good source material.

Q Do you consider that as official source material?

A It's not official but it's very good.

Q Are you aware of the fact that Exhibit 9 contains information regarding further extension of the underwater portion of the breakwater?

A Yes, I am now.

Q Now, I refer you to the sailing directions, Exhibit H, page 219 and what does that say about the underwater extension?

THE COURT: Again, why do--

MR. SCHULMEISTERS: Otherwise I will be accused of leading.

THE COURT: This is so totally unnecessary. It's an exhibit in evidence. In fact, you have already

pointed out the relevant pagination so why do we ask poor Mr. McLoud to do something that we are competent to do?

Q Let me ask you then another opinion, Mr.McLoud: In view of what is contained in Exhibit 9, and in Exhibit H, the sailing directions, in your opinion do you think a notice to mariners should be issued concerning the further extension of the breakwater?

A No.

Q Why not?

A It's covered within the text of the sailing directions, it explains that the breakwater is being extended, has been extended, there is a buoy marking the end of the underwater construction of the breakwater, there was a red sector on the chart covering the area. As I say, and the buoy marking the end of the extension. This should be considered to be sufficient to warn a mariner that work is going on, that the breakwater is extending the time as they get around to it.

Q Let me ask you another opinion: At the time when change 13 was written in your opinion was a notice to mariners then necessary?

A No.

Q Why not?

A The same reason, it's fully covered within the text that the breakwater was being extended, there was extensive work going on there, there is a submerged portion of the breakwater, a buoy marks the end of the construction work, the red sector of the light covers the area at night and there is no significant change in this area that would warrant a notice to mariners. The buoy is a black buoy which should be on the starboard in entering which would keep you away from the construction area.

Q Does the Defense Mapping Agency have anything to do with changing sectors of lights in Morocco?

A No.

Q All right.

A We merely report what's been done.

Q Subsequent to the grounding of the Potomac do you know, has the red sector of that light been changed?

A Yes. The red sector's been changed to the east to cover all the underwater--or what we presume to be the underwater construction.

Q That's shown on Exhibit 8, is it not?

A Correct.

Q Would you label that as "B"? (Handing.) Here's the black pen. (Handing.)

THE COURT: This is the chart known as Plaintiff's Exhibit 8?

MR. SCHULMEISTERS: That's right, that's Plaintiff's Exhibit 8, the master standard.

Q When did the Hydrographic Office receive notice of the sector being changed?

A I have to have more details than I have got here.

Q Let me show you Plaintiff's Ellis Exhibit 7 and 7-A. (Handing.) What are they?

A One is a copy of the French Notice to Mariners,the other is a copy of the United States Notice to Mariners.

Q Which is the French Notice to Mariners?

A Exhibit 7-A.

Q 7-A?

A Ellis number 7-A.

Q By looking at it can you tell when that was issued?

A I t was issued in the 32nd week of 1972.

Q That would be after June 30, 1972, is that correct?

A Right. Correct.

Q And how soon after it was issued does the

Hydrographic Office receive a copy of it?

A Probably two weeks, three weeks.

Q What is Exhibit number 7?

A Exhibit 7 is a copy of United States Notice to Mariners 1937 to 1972, page 13.

Q What week was that issued?

A That was issued in the 37th week of 1972.

MR. SMITH: I object to this, your Honor. This is after the accident and there is no relevance here at all.

THE COURT: Well, I am surprised you would object because I would have thought this would interest you or your client more than it would the government. But in any event--

MR. SCHULMEISTERS: Your Honor, my point in this is that information for our charts and lights and so on comes from foreign countries. It's not something that--

THE COURT: As I understand it, I would agree with you but you have already made that point. But in any event I think it's relevant, and I would think the plaintiff would be particularly anxious to get it in. This is one of the baffling features of this lawsuit. Bot sides persist as I see it, and I of course could be

Q What is the top--

A This is the Bay of Casablanca.

Q All right.

MR. SCHULMEISTERS: Your Honor, I would like to have this Exhibit number KK received in evidence, the British Admiralty chart.

THE COURT: Well, Mr. Schulmeisters, I really don't wish to be rude to you but again we have so many charts in evidence what does this add to what--

MR. SCHULMEISTERS: Well, this is the one-- we discussed the fathom mark yesterday and I would like to have that chart, a British Admiralty chart in evidence.

THE COURT: Well, we weren't here yesterday so--

MR. SCHULMEISTERS: I am sorry, not yesterday, I meant Wednesday.

THE WITNESS: Tuesday.

MR. SCHULMEISTERS: Or Tuesday.

THE COURT: All right.

MR. SCHULMEISTERS: I believe this goes toward one of the contentions of the plaintiff.

THE COURT: Well, I dont hear Mr. Smith complaining, so it may be received.

(Defendant's Exhibit KK received in evidence.)

Q Mr. McLoud, there is another British Admiralty

chart I show you. Would you please read off the date of that chart? (Handing.)

A 1957.

Q Speak up, please.

A 1957.

Q Now, this is also chart 860, is that correct?

A That's correct. BHR 860.

Q Does that chart have a six-fathom curve similar to what chart Exhibit KK has?

A Yes, they look to be similar.

MR. SCHULMEISTERS: Your Honor, this other chart has been obtained from the Library of Congress, and it has to go back to it. I have a photocopy of the relevant portions of it and this is going towards the contention of no basis for the six-fathom mark and if there is no objection I would like to mark a photocopy as Exhibit KK-1 of the 1957 chart.

THE COURT: Well, you just put Exhibit KK in evidence.

MR. SCHULMEISTERS: That's right.

THE COURT: I thought you were showing quite a different chart number 860 dated 1957.

MR. SCHULMEISTERS: That's right. Now, this photocopy--Exhibit KK is the 1972 edition.

Bowes?

Exhibit NN. Is that correct, Mr.

THE CLERK: That's correct, your Honor.

THE COURT: Exhibit OO, you are right. I beg your pardon.

(Defendant's Exhibit OO marked for identification.)

MR. SCHULMEISTERS: I would like to have that Exhibit OO in evidence.

MR. SMITH: No objection, your Honor.

(Defendant's Exhibit OO received in evidence.)

MR. SCHULMEISTERS: Just for clarification, your Honor, Exhibit OO is the upper portion and does not have the dates on it, but Mr. Smith has stipulated this is the bottom, it says 1957--

MR. SMITH: We don't have to stipulate anything because you represented that this chart was the same and it's a different chart. It's 1972 then you made a copy of a 1957 chart.

THE COURT: Now, you overlooked what I just asked, Mr. Smith. I don't blame you for thinking that originally but thatis the point of my discussing the matter with Mr. Schulmeisters. He stated it wrong. But the fact is that Exhibit OO is not in any way related to Exhibit KK, except of course Mr. McLoud has been asked to

make a comparison which he has made. But Exhibit OO is a photocopy of a portion of quite a different chart. BHI 860 which comes from the Library of Congress and which counsel does not wish to mark here because it has to go back into the library. That is what we are talking about. And there is no doubt that this chart of which Exhibit OO is a portion is dated 1957.

MR. SCHULMEISTERS: All right, your Honor. Since the markings are usually on the bottom part which is not relevant, can we just have the witness mark 1957 on Exhibit OO, please, if there is no objection?

THE COURT: I don't know if there is any objection but the record is clear, all you have to do is look at the face of the chart and see that.

MR. SCHULMEISTERS: All right. Just put 1957 at the bottom, please. (Handing.)

Q Now, Mr. McLoud, when your section issues, or prepares sailing directions, why do you not just translate a copy of a foreign nation's sailing directions, let's say the French?

A Basically the prime source for any sailing direction material goes into a great deal of detail. They write sailing directions not only for ocean-going ships as we do to get them from pilot station to pilot station

buy they also write sailing directions for the benefit of the yachtsmen, the fishermen, the coastwise traffic, small craft and so forth which goes into a great deal more detail than we do. This means of course there would be many, many pages of text that we would have to publish and distribute which would be of absolutely no use to the user of our publications.

Q Do you have any explanation why the prohibition against passing between buoy CA-5 and the breakwater, Jetee Delure, which appears in the 1959 sailing directions is not in the American sailing directions?

MR. SMITH: Objection, your Honor. This witness did not write the sailing directions, he didn't review them, he doesn't know what went into making them up.

THE COURT: Well, it may be that he didn't write them but I am not sure that he didn't review them because of his various positions in the two divisions which he has spent so much time. I gather you did have occasion to review this, did you not?

THE WITNESS: No, sir. Very superficially. Not in detail, not for technical competence, merely for format and so forth. I did not, and do not have the time to run any detailed review of any of the material.

THE COURT: Do you happen to know of your own

knowledge why it was that this prohibition of passage between buoy CA-5 and the end of the Delure Jetee which came out in the French sailing directions of 1959 was not included in any subsequent change or, correct me if I am wrong, notice to mariners?

THE WITNESS: Not specifically. I can surmise our normal procedure and the way the people think. And the way we do our work.

THE COURT: Well, then, I will--

THE WITNESS: But that would be in general.

THE COURT: Then I will allow a question of their general procedure. He's made it clear that he doesn't know specifically and directly but I will allow the general procedure.

Q In connection with this subject what would be the general procedure, Mr. McLoud?

A The man that's writing the sailing directions without having the benefit of the translation being made would probably not go into that because when there wasn't any change they wouldn't indicate they would have to check this type of material. If he did there is still the general supposition here that we do say in the sailing directions the area is being extended, it's marked by a buoy at the end of the construction, the buoy

is a black buoy, the men left inside, the chart is marked that way, there is a red sector on the chart which covers the area and normally he would not put in such a thing. He would, I believe, if he is working on a new edition type thing, would go into it real thoroughly.

MR. SMITH: Your Honor, I move to strike that answer as being wholly speculative.

THE COURT: I will strike the last portion, he would, I believe, etc., I agree with you.

Q Mr. McLoud, I show you Plaintiff's Exhibit 17, the British sailing directions. (Handing.) Do they have an absolute prohibition in their sailing directions against passing between Jetee Delure and buoy CA-5?

A They say, "Vessels should not pass between the head of Jetee Delure and the light and whistle buoy moored about four cables east-northeastward," should not pass.

Q I will repeat my question--

A It does not prohibit, no.

Q So there is no absolute prohibition in the British sailing directions either?

A No.

THE COURT: Is there anything else?

MR. SCHULMEISTERS: Yes, sir, a few more questions.

Q I show you Exhibit R. (Handing.) What type of a chart would you call this chart generally speaking?

A We consider this to be an approach chart to various ports along the coast.

Q Does it include Casablanca?

A Includes Casablanca.

Q Just a moment ago you mentioned that Mr. Buckwalter was Mr. Anderson's supervisor at that time.

A That's correct.

Q When you testified at your deposition, Mr. Smith, did you mention a different name as the--

A At that time I thought it was Mr. DeMaio. I forgot that there was a period of two or three months when Mr. Buckwalter was the head of that section after we switched their jobs. After I looked into it later I discovered it was Mr. Buckwalter.

Q Let me show you something here and ask you if you can identify it, please.

A It's a Notice to Mariners, number one of 1972, published by the U.S. Naval Oceanographic Office on 1 January 1972.

Q I turn you to page Roman Numeral five and the paragraph on the bottom generally, what does that deal with?

A It's a paragraph relating to requests for

corrective information. This asks mariners of all nationalities to report any discrepancy between our charts and publications to our Hydrographic Office, or to any of our field offices or to any appropriate Hydrographic Office. This is so that we can use these reports to update our-- the charts and publications.

Q Do you know whether similar type of requests are contained in other Notices to Mariners issued by other countries such as England or France?

A Yes, this is quite common for all countries to ask for similar types of information.

Q Do you know, is there a similar request in French Notices to Mariners?

A I believe so. Every Notice to Mariners I know of has something of a similar nature.

THE COURT: Are you going to mark this document, or is this--

MR. SCHULMEISTERS: I was not going to but I guess maybe we should. Would you mark this as Government's Exhibit PP?

(Defendant's Exhibit PP marked for identification.)

MR. SCHULMEISTERS: Your Honor, would you like to have that in evidence?

THE COURT: I leave that up to you. I still think it ought to be marked.

MR. SCHULMEISTERS: All right, let's mark that into evidence then.

THE COURT: Well, I am not asking you to. When I say marked, I mean for identification.

MR. SCHULMEISTERS: I understand, your Honor, but I think maybe we should have the entire--

THE COURT: Page five.

MR. SCHULMEISTERS: Page five, right.

THE COURT: Any objection, Mr. Smith?

MR. SMITH: No objection, your Honor.

(Defendant's Exhibit PP received in evidence.)

THE COURT: Anything else?

MR. SCHULMEISTERS: Yes.

Q Mr. McLoud, do you know is there a similar request in the sailing directions, which is Exhibit H?

A Yes, there should be. There should be a form in the back in which to submit information as a matter of fact.

Q Please speak up--

A I say there should be a form in the back of that which they can submit information on in fact. Unless somebody's left it off.

Q Would that be page 409?

A That's correct. Request for correcting--

Q All right. And right in the beginning of the volume is there also a request?

A Yes. Correct.

MR. SCHULMEISTERS: I have no further questions at this time, your Honor.

THE COURT: Mr. Smith.

CROSS EXAMINATION

BY MR. SMITH:

Q Mr. McLoud, Mr. Rolf Anderson made change 13, is that correct?

A That's correct.

Q Where is Mr. Anderson today?

A In Washington, D.C. working at the office, I presume.

Q Do you have any personal knowledge of the writing of change 13?

A I don't understand what you mean by personal knowledge, Mr. Smith.

Q Do you have any personal knowledge of the substance that was investigated or used in writing change 13?

A Yes.

Q Did you have any knowledge of that prior to

totally irrelevant in any event at the moment because of that simple fact. We haven't completed this trial. We don't know who is going to come. You don't have to make any explanation, Mr. Schulmeisters.

Next question.

Q Prior to becoming section head, section chief is the word you used? Is your classification section chief?

A Branch chief.

Q Branch chief. Prior to becoming branch chief how long had you served in the sailing directions branch writing sailing directions?

A About three to four months when I first came into the office.

Q How long ago was that?

A 1951.

Q What did you do after that three months?

A Worked in the pilot chart section.

Q Making the pilot charts which--

A Pilot charts and writing articles and so forth. In addition to that I might add--

Q When you say writing articles, what kind of articles did you write in?

A The type of articles that appear on the back of the chart, the pilot charts, relating to many diverse

subjects related to navigation.

Q How long did you do that, Mr. McLoud?

A Well, really I have been writing them--I still write parts of them once in awhile. I guess the last twenty years I have been writing them on and off.

Q And these are articles on marine casualties--

A That's correct.

Q Or interesting articles to mariners, is that correct?

A That's correct, on many different subjects.

Q In addition to that job what other jobs have you held in the Hydrographic Center or the Hydrographic Office since you have been employed there?

A Many different jobs.

Q Well, let's describe some of them specifically so the Court knows what your expertise is here.

A I made--in addition I worked on the graphics, development of graphics to portray technical material graphically.

Q That would be for example the things that are in Bowditch?

A I worked on these and also the new type we are putting--where we are instead of writing about the directions we are showing them graphically so there is no

mistake about which buoy you are going around and so forth. I also was in charge of our branch offices a few years ago, and we had twelve branch Hydrographic Offices throughout the world, I was the technical advisor, I was put in charge of that as the technical representative in an effort to get mariners to submit additional reports on conditions they met. I went throughout the world, Japan, Panama, throughout the United States, Hawaii, each year on inspections of these offices, laison with different shipping companies, different naval commands, visiting ships and so forth, to generate this type of thing to come backinto the office.

Another time I wrote for a classified series of publications material very similar to sailing directions type of material, except that it was for a very specific purpose on a world-wide basis. I wrote all of that material, all the information required to get seaborne comments, if you will, into an area.

Q Did you have any experience in photography?

A Cartography?

Q Yes.

A The experience I have had in cartography is when I was working in the graphics and the pilot charts area where we did all our own cartograph work is concerned,

as far as our illustrations were concerned and I was also in charge of production of the time zone chart, various other special charts put out by the branch where we did all the cartographic work itself.

Q But you were never concerned with navigating charts as such as a cartographer?

A In the direct line of production of this type of chart, is that what I understand you to mean?

Q Yes.

A No, except for reviewing and talking about it and so forth. Managerial type thing.

Q There was a chart that you identified on your deposition which was Plaintiff's Exhibit 103, it's a pilot chart for March 1967. Were you in the pilot chart section when that chart was made up?

A No.

Q Where did the information come from that is on the reverse side of the pilot chart, the buoyage information?

A This was all taken from an international Hydrographic Bureau publication on buoyage and beaconage for the world.

Q And that is a limited circulation, isn't it?

A That's right, it's limited circulation and

this is the reason that we took the information and put it on the back of the pilot chart so we would give it wide dissemination throughout the maritime--

Q Now, the information on the back of that chart, is that in any publication that the Hydrographic Office or the United States government puts out anyplace?

A Is any of it?

Q No, the information particularly with respect to Morocco.

A To Morocco. Specifically. As far as I know, it's not.

Q It's not in Bowditch, is it?

A I am not sure whether Bowditch refers to it in--no, I wouldn't. At the time most of this was put out Morocco was under France so I think when Bowditch was published probably it was included under France and wouldn't have been listed separately.

Q Well, is it in Bowditch in France?

A As a European--

Q You said it was under France. Now,is there a specific reference--

A I dont know. I'd have to look into it. I couldn't answer the question without looking into it.

Q Well, let's look at it. Perhaps I didn't give

you the exhibit. Maybe I gave you my copy.

MR. BEIDERMANN: That's the exhibit.

MR. SCHULMEISTERS: That probably is the exhibit.

A No, it says the European countries. It may be said that very generally European countries follow the uniform system of 1936, most other countries follow the system of 1889. It doesn't mention France specifically.

Q Captain, I refer you to page 983, appendix K of Bowditch. Now, the first sentence on that page after general remarks says, "Chart number one," would you read that out loud, please? Just the first sentence.

A The first sentence?

Q Right.

A "Chart number one contains the standard symbols and abbreviations that have been approved for use on nautical charts published by the United States of America."

Q Now, would you turn to page 992, section L of the appendix K.

Now, that's a part of chart number one that was just referred to, isn't it?

A That's correct.

Q Now, would you refer to the right-hand column

directly under buoys and beacons, and the first item we have is number 16. Do you see that there, page 992?

A Correct.

Q All right, what is that symbol?

A A black buoy.

Q What does it say to the right of that?

A To the right of that it says, "Portland buoy entering from seaward." "Seaward."

Q I take it your answer is that you know of no other place where the buoyage systems of other countries may be found, is that correct? Other than the publication that was put out by the international organization?

MR. SCHULMEISTERS: Objection. He just testified about the other chart, your Honor. I think that is an unfair question.

THE COURT: Well, I am not so sure it's unfair but I don't know really what it has to do--perhaps I really don't understand this. What are you trying to elicit from him?

MR. SMITH: Well, Mr. McLoud is in charge of this particular section--

THE COURT: I know that. That I know. Now this question, what is it you are trying to get at?

MR. SMITH: I am trying to find out, your Honor,

whether there are any other publications available to Captain Anderson that he could look at about the buoyage system in Morocco before he goes there.

THE COURT: I am at a loss because he has one thing right square in front of him which would answer that question and about which you have been asking him. This is the chart on which on the back the buoys of the world are. So you mean in addition to that?

MR. SMITH: Yes, in addition to that.

THE COURT: All right. Do you understand, Mr. McLoud,what he is apparently trying to ask? Any charts or volumes?

THE WITNESS: I believe that's what he's-- I believe I know what he means, yes, sir.

THE COURT: All right.

A I believe there is other books on navigation, such as Duttons, Knights, and other standard navigational text books which explain buoyage systems in about the same way that it's explained in Bowditch here.

Q The same way.

A In approximately the same way, that European system, the uniform system which is used throughout Europe, the color of the buoys is the reverse of those used in the United States. This is spelled out in most of the

text books on navigation.

Q My question to you though is, is there any place other than this particular chart, Defendant's Exhibit 10, where a mariner could go to to find what the buoyage system is in a country?

A Some of the sailing directions. I am not sure exactly which ones now. The ones that we have got the later editions, in the sailing directions of the same thing in them. There is not one for Morocco, but other countries have color plates similar to the information here for the different countries.

Q Have you made a search in preparation of this case to find out if there was any place where it was mentioned?

A I covered simply the things I have mentioned. I have not gone any deeper than that.

Q And you found nothing?

A Nothing. That's correct. Nothing except those things that I have spoken of.

Q Now, in normal course do all mariners receive that-- all pilot charts that are printed?

A We feel that we have a pretty complete coverage on pilot charts. I wouldn't say it was 100 percent because I don't know how we could ever prove or

disprove that. However, most ships are-- most ships we know of are on the mailing list for pilot charts.

Q But you feel that most ships receive that particular pilot chart?

A If they were on the mailing list for pilot charts at that time, yes.

Q If they were on the mailing list. Now what is the mailing list?

A The mailing list is made up of all the cooperating observers, any ship that sends a report into the office is put on the mailing list. Any ship that sends in a weather report or anything to the weather bureau is put on, any ship that requests the pilot chart is put on the mailing list, any ship that goes to the branch offices and asks for them is put on the mailing list. We try to give wide dissemination to the pilot charts. It's the only medium of publicity that we have really to get the words out.

Q Can those pilot charts be published any other way? Are they published any other way?

A Some of the selected ones have been published in a pamphlet form. They have been broken down into pamphlet form and published as science of the sea service.

Q Was there such a series of charts available in

Q All right. Now, this atlas covers the same area that--

A No.

Q --Exhibit--

A No, this is for the northern north-Atlantic. It goes much further north. This is for the north-Atlantic, this is for the northern north-Atlantic. This is the Greenland, Bering Sea area. This goes,--the publication 108 goes much further north than the pilot chart 1400 of the north-Atlantic. We are talking about two different charts--

Q I see.

A This is specifically for northern operations.

Q Right.

A This is for north-Atlantic.

Q Is the north-Atlantic bound also?

A No, it's published monthly. One time we did bind them but I don't believe they are in existence any more. It's a monthly publication. But north-Atlantic and north-Pacific are published monthly and are no longer bound.

Q How long are those single charts kept?

A Single charts can be kept as long as the man wants to keep it.

Q As a practice, how long are they kept, if you

know?

A Most ships that I am familiar with and I have visited and I have been on when I have visited when I was going through the ship visiting program, their most common practice was to keep them at least a year, if the mariner had any articles he had any special interest in or any information he wanted to hold he would keep them longer. But at least once a year. I think the normal procedure is the March chart comes in you throw last year's March chart away if you don't want anything out of it. If there isn't something on the back that you want to retain.

Q So in other words, the mariner tries to keep his charts up to date and he disposes of the--

A That's correct, as far as the face of the chart, as far as the articles on the back, ships retain those for various reasons.

Q How long were you a navigating officer in the navy?

A About two years.

Q And you sailed with the Panama Canal Company on the passenger liner Ancum, was it?

A Yes, sir.

Q How long did you sail there?

A Three years, four years.

Q In what capacity?

A Second and Third Officer.

Q You have never sailed as master then?

A No.

Q What is the lag time from the time that there is a request for Notice to Mariners until the time it's actually published to the mariner?

MR. SCHULMEISTERS: Objection, your Honor, I think it should be clarified, request from whom, whether it's internal or external.

MR. SMITH: I am talking within your own organization.

THE COURT: Why don't you rephrase it? It's a little bit unclear in another aspect too.

Q Let's refer to your direct testimony with respect to the Notice to Mariners that were put out on chart corrections for Plaintiff's Exhibit 13. How long would it take after the cartographer picked up the correction and requested a Notice to Mariners before it was actually in the hands of a mariner?

A Normally this would take three weeks to publish and distribute, and there would be--how good the U.S. mails were from that point on. But normally, we'd

figure three weeks from the time we write manuscript to the time the information is published and mailed out.

Q Do you know when Mr. McLoud, the cartographer who went over this chart actually made up this list and submitted it?

A I would have some idea of the date.

Q What date would that be?

A I can't make this one out. 2-71--

Q Isn't that 11--

A I think it's probably 11-2-71.

Q Would you look at Plaintiff's Exhibit number 14 and tell me which of the corrections actually were turned into Notice to Mariners?

A These were turned into Notice to Mariners on this list.

Q That's--

A You mean which ones were published as a Notice to Mariners?

Q Yes.

A These two, four and five which is indicated published Notice to Mariners number one, 1972, both of these depths, this is our indication for publication in the Notice and this was when he wrote this was 12-8-71 and this would be of course the first week, it should be

the three-week period.

Q Would you take this red pencil and circle the particular correction on the chart that was put out as a Notice to Mariners? (Handing.)

THE COURT: We are working on Plaintiff's Exhibit number 14 now?

MR. SMITH: This is Exhibit number 13, your Honor.

THE COURT: All right.

Q Now, would you number those according to the way they are on the Exhibit number 14? I am sorry, they are already numbered, aren't they? Well, number them up here at the red circles. Now, let's go to number five. Number five is a change in the depth, is that correct?

A That's correct.

Q Where is that located? With respect to the jetee.

A Just below the jetee. South of the jetee. It's inside the six meter curve.

Q It's inside the six meter curve?

A Yes, it's a lower depth.

Q In your direct testimony it was your opinion that it was not necessary to send out a Notice to Mariners

on the difference in the length of the jetee, is that correct?

A That's correct.

Q Do you feel the same way about number five?

A Depths? No.

Q Isn't that up alongside the jetee?

A That's correct, it's new information though.

Q Wasn't this new information at the end of the jetee?

A No, also here it was work in progress. If we had something in here within this area that said a shoaling exists or something like that and there was a change in the shoal we wouldn't bother to show that either.

Q Isn't a difference of 80 to 100 meters in the length of a jetee a significant change?

A I don't know how--what the exact difference was.

Q Well, wouldn't that be a significant change?

A It's according to the way the jetee was, the scale of the--

Q Mr. McLoud, I am talking about this particular chart.

A --the scale of the chart and so forth.

Q Isn't an extension of that jetee by 80 to 90 meters a significant change in the chart?

THE COURT: First of all let's establish, do you agree that that is a change?

THE WITNESS: I am not sure of what the change was. I don't know where we get the 80 to 100 meters. I would like to see what 80 to 100 meters looks like on the chart.

Q Well, I will give you a pair of dividers.

A In this case, no.

Q Why isn't it?

THE COURT: Well, first I want to make sure I understand this, Mr. McLoud. Do you agree that counsel is right in suggesting that it's a difference of 80 to 90 meters?

THE WITNESS: I am not sure that that's what it was.

MR. SMITH: That was the evidence this morning.

THE WITNESS: In relation to this chart and the other chart.

THE COURT: That's why I am pressing the question.

THE WITNESS: I am not sure what it was. I'd have to go back and reconstruct. I don't remember

how much the extension was. Whether it was 80 to 100 meters or not.

THE COURT: I think the only fair way to put this serious question, Mr. Smith, is just to ask him to assume that with the difference, which it may or may not be, but I will decide that I guess, as the finder of facts. But my concern here is putting words in his mouth which I don't think is quite right and very helpful to you in any event.

The question should go: Assuming that there was a difference to this extent between the existing HO chart and the new French chart showing 80 to 90 meters difference, I gather your question to Mr. McLoud is, in effect, was this a significant enough difference to merit a Notice to Mariner reference. I am speaking to you, you know, Mr. Smith.

MR. SMITH: Yes, your Honor.

THE COURT: Not just for the benefit of hearing myself. I don't particularly enjoy myself that much. Do you want me to repeat it?

MR. SMITH: No, I heard the question, your Honor.

THE COURT: Well, isn't that what you are seeking to ask?

MR. SMITH: Yes, your Honor, it is.

THE COURT: Good.

Q Can you answer that question, Mr. McLoud?

THE COURT: In other words, just assume that he's correct in suggesting the difference is 80 to 90 meters. In your opinion, making that assumption, was this significant enough in this area to warrant a notice, or reference in a Notice to Mariners?

THE WITNESS: No.

THE COURT: It was not.

THE WITNESS: No. Not from the portrayal we have on our chart of the same area showing the construction of the breakwater, showing that there was work in progress on the breakwater.

THE COURT: In other words, this was just--

THE WITNESS: And our assuming that the buoy marked the end of the construction on the breakwater.

THE COURT: All right.

MR. SMITH: Your Honor, I would like to--

THE WITNESS: Could I add to that, on a new edition of a chart or something like that it would certainly be germane but in this case as far as publishing a notice on it, no.

THE COURT: Now, what did you say, Mr. Smith?

courtroom this morning, were you?

A Yes.

Q And that was the figure that Captain Lechartier--

A I don't recall.

Q You don't recall. Now, would you measure the same distance on the French chart, Plaintiff's Exhibit 13? (Handing.)

A About 280, 285.

Q So there is a difference according to your measurements of about 80 to 85 feet as between the two.

A 70 to 75.

Q I refer you again to--

MR. SMITH: Your Honor, I don't know whether the record is clear that I mentioned the other chart that he was measuring from but the first measurement was from Defendant's Exhibit D and the second one was from Plaintiff's Exhibit 13.

Q Now, we are again referring to Plaintiff's Exhibit D. Would you--

A Defendant's D.

Q I am sorry, Defendant's Exhibit D. Would you look at the chart? Is there a six-fathom curve round the end of the breakwater?

A Yes, sir.

Q Now, working within the Hydrographic Office

and as a mariner what does that mean to you?

A The waters inside there are under six fathoms.

Q And the water outside of it is over six fathoms?

A It would be over six fathoms.

Q Is there any such fathom curve, or equivalent curve on Plaintiff's Exhibit 13?

A No.

Q I'd like you to take a look again at United States Hydrographic Office Pub 51, Defendant's Exhibit H. Didn't change 13 cover almost every page in that publication?

A Not every page, no.

Q Well, let's look at the individual pages and show me from the first page--well, if you think you can do it easier the other way--

A It's all listed right here, on one page. This is the list of effective pages. In other words, page one would be change 13. Wherever there is a 13 after the page number that was the page that was changed by 13. Here this one 13 - 12, that means the change page was issued, change 12 was still in effect.

Q We are referring now to a page which is numbered Roman Numeral XIV of Defendant's Exhibit H.

A Correct.

record in the office.

Q Don't we have a chart record here as an exhibit? Is Plaintiff's Exhibit 10 the chart record or the chart history? (Handing.)

A That's not the chart record, no.

Q That's not it?

MR. SCHULMEISTERS: You have it, it's Exhibit 1.

Q Plaintiff's Exhibit 1, is that it? (Handing.)

A This is the chart record.

MR. SCHULMEISTERS: Your Honor, may I show--I have something that can give a much faster answer if Mr. Smith would like to have it.

THE COURT: Well, show it to Mr. Smith.

Q The only Notice to Mariners that was not incorporated, I believe Mr.--the only Notice to Mariners that was not incorporated on this chart before it was delivered to Captain Hansen was this one that we have here now, is that right?

MR. SCHULMEISTERS: Yes.

MR. SMITH: May we have this marked as the next exhibit?

(Plaintiff's Exhibit 109 marked for identification.)

Q Now, these Notice to Mariners are the ones that

were referred to in Plaintiff's Exhibit 14, is that correct?

A Yes. They are also in this chart record.

Q And those were the two that you marked on Plaintiff's Exhibit 13, is that correct?

A That's correct.

MR. SMITH: I would like to offer this in evidence, your Honor.

(Plaintiff's Exhibit 109 received in evidence.)

THE WITNESS: I think to set the record straight if I remember there was also a change in the light characteristic or light face on there, light legend change in that same notice, isn't there?

Q Was this the same Notice to Mariners?

A In that same Notice to Mariners paragraph, there is three items not just two.

Q Do you want to describe that one for the record as to what it is?

A That's the Amanda light in position 33 degrees, 37 minutes, 15 seconds north, 7 degrees, 35 minutes, 42 seconds west to ISO-C four seconds, 21 feet, , , five miles.

Q That isn't on this chart, is it?

A It should be.

Q It should be?

A This is the chart that's cited. That's obviously this light.

Q It's the light--

A At the end of that jetee and the correction has not been made on this chart, Exhibit--whatever it is. The correction has not been made on Exhibit D.

Q You referred to the master standard chart which was Plaintiff's Exhibit 8 this morning. Is that Plaintiff's Exhibit 8 exactly the same chart as Exhibit D? (Handing.) Defendant's Exhibit D.

A No, this is--this Plaintiff's Exhibit 8 is a later printing than--

Q Exhibit D?

A --Exhibit D.

Q Could the chart that you referred to as an approach chart on direct examination also be called a coastal chart?

A I suppose it could, yes. In this case it would be the approach chart.

Q When you say this case, are you referring to the Potomac case?

A No, no, I mean for the approach to Casablanca. That's what I mean.

Q But it's a coastal chart, isn't it?

A It could be used for coastal as well.

Q You referred to a part of the sailing directions which said that there was construction underway and it was marked by a buoy off the end of the breakwater. Could you turn to the sailing directions, Exhibit H, and refer to that particular wording that says that?

A I believe, I don't know what I said but I am sure what I meant when I said the chart said work under construction.

Q Your testimony was that there was a reference in the sailing directions to that and you said that the buoy was off the end of the construction.

A Well, if I did I really meant that the chart was what labeled work under construction.

Q Work in progress--

A Right.

Q Inside the dotted area at the end of the Jetee Delure and also inside the six-fathom curve, is that right?

A Where it says work in progress right here.

Q That's what you were referring to?

A Yes.

Q And there is nothing in the sailing directions that says there is work in progress and it's marked

by a buoy, is it?

A It says--

Q Well, we know what that says, what we are asking you is there anything in the sailing directions that says that the buoy marks the end of the construction?

A Let me find what we say about the buoy, please. It says, "A lighted whistle buoy, equipped with a radar reflector, is moored close off the seaward extremity of the submerged section of the breakwater forming the outer portion of Jetee Delure."

Q Does it say there that there is work in progress?

A In the sailing directions itself, no.

Q Does it say that buoy marks the end of the work in progress?

A No.

Q Are there any words anyplace in the sailing directions to the effect that a vessel is forbidden to pass between the buoy and the end of the jetee?

A No, just the section that I just read off previously concerning the buoy being close--

Q Are there any words in the sailing directions that say a vessel should not pass between the buoy and the jetee?

Q I will just refer you to the sailing directions and you read the section dealing with the whistle buoy being closed off the underwater extension breakwater.

A Yes.

Q Other than buoy CA-5 is there any other buoy in the vicinity of the breakwater--

A No.

Q --and I refer you to both the charts D in evidence and also 8 in evidence.

A No. There is nothing else--

Q Is there any other buoy on Exhibit 13 close off?

A No, there is no other buoy considered to be close off.

Q Is there any other whistle buoy nearby?

A There are no other whistle buoys nearby.

Q So that is the only whistle buoy there?

A Correct.

Q And that is CA-5, is that right?

A CA-5.

Q When I asked you your opinion earlier and you had Exhibit 8 in front of you, would you please also look at Exhibit D and tell me number one is there any

difference in the area of the buoy CA-5 and the breakwater and the jetse between their appearance on Exhibit D and on Exhibit 8?

A No, they are essentially the same.

Q Would your opinion be different if I had asked you to use Exhibit D instead of Exhibit A?

A No.

Q I notice on Exhibit D there is a chart let in the middle.

A Correct.

Q Is that the same information that is on Exhibit 8?

A Yes.

Q Do you know how a chart let like the one appearing in Exhibit D comes to be on a chart?

A How the chartlet comes to be on the chart?

Q Yes.

A Yes.

Q Can you explain that, pleas

A Well, there was a change in this area which was so voluminous and so detailed that we couldn't write in the Notice to Mariners. It would have made a lot of excess work for everybody especially the people trying to hand correct the chart so we put out a chartlet which is

A Oh, yes. Very extensively.

THE COURT: You mean since his EBT?

THE WITNESS: Yes, sir.

Q And you also reviewed them prior to your EBT? Since the starting of the suit?

A Right. Ever since we got the telegram from Mr. Smith saying the ship is coming up for survey.

Q Just a few more questions. Plaintiff's Exhibit 103, the pilot chart with the buoyage systems on the back, is that the only chart like that or are there other s, do you know?

A That we publish?

Q Yes.

A That's the only one that I know that we publish.

Q Are there others also--

A Excepting some of the sailing directions.

Q Are there other pilot charts that have buoyage systems in the back?

A Yes, that's one of the series of four which gives the buoyage systems of the world.

Q In other words, the whole series of four would give the whole systems, all the systems for the world?

A Yes, the systems for all the countries of the world.

master of the Potomac at the time of the stranding, your Honor.

THE COURT: All right.

V E R N O N H A N S E N , called as a witness on behalf of the plaintiff, having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SMITH:

Q Captain, when did you first start going to sea?

A 1936.

Q In what capacity?

A I was a cadet.

Q When did you receive your first license as a merchant marine officer in the United States Merchant Marine?

A 1943 or '4.

Q How long have you sailed as a licensed officer?

A Since 1943 or '4 except for maybe six years, roughly.

Q What licenses did you hold along the way?

A Third Mate, Second Mate, Chief Mate and Master.

Q When did you first join the Potomac, what year?

A 1962.

Q In what capacity?

A Third mate.

Q What capacities have you served on the Potomac since that date?

A Third Mate, Second Mate, Chief Mate and Master.

Q When was it that you first became master of the Potomac?

A 1965.

Q Have you served on any other vessels between 1965 and the time of the stranding?

A Two.

Q Which two vessels were they?

A Platt and James.

Q Are those vessels operated by Ogden Marine?

A Yes.

Q Is the Potomac also operated by Ogden Marine?

A Yes.

Q Prior to the voyage of the Potomac to Casablanca, when did you join the Potomac last?

A I'd been on vacation and I had returned, I believe it was, in January of that year.

Q Where was the ship at that point?

A Galveston.

Q Whereabouts in Galveston?

MR. SCHULMEISTERS: No objection.

(Plaintiff's Exhibit E received in evidence.)

Q Would you explain to the Court how this record is kept, Captain?

A Well, we started a new book the first of each month and it's kept by each watch officer and signed by the chief mate and the master daily and they usually make an entry in it every four hours when they finish their watch.

Q Do you keep a smooth log?

A This is smooth. It used to be smooth and rough and it is now original with two copies.

Q I notice the green pages are in what appears to be a ballpoint pen. Is that the original copy?

A Yes, right.

Q How do you make the other copies?

A Carbon paper inserted daily.

Q What do you do with those?

A Mail them to New York or to the office.

Q Do you keep a smooth log in addition to this?

A No; that's it.

MR. SMITH: I have another document I would like to have marked as Defendant's Exhibit K for

Q Would you identify that document?

A This is the engine bell book which was aboard the Potomac on the day of the stranding.

MR. SMITH: I offer this in evidence.

MR. SCHULMEISTERS: No objection.

(Defendant's Exhibit M received in evidence.)

Q What is the source of your charts and sailing directions, Captain?

A Hydrographic Office, which is now the Naval Oceanographic Office.

Q Did you use or have on board French sailing directions or charts?

A No.

Q Did you have on board a British Admiralty chart for sailing directions for Casablanca?

A No.

Q Have you used French sailing directions or charts?

A No.

Q Have you used British Admiralty charts?

A Yes, in the North Sea.

Q Under what circumstances?

A When there was no American charts available.

Q Captain, you made your voyage from the U.S.

Gulf Coast over toward Casablanca.

When did you arrive off Casablanca?

MR. SCHULMEISTERS: Objection. What do you mean by arrive?

MR. SMITH: Well, if the Captain doesn't understand the question, he can say so.

THE COURT: Go ahead.

A The day of the stranding. What was the date?

THE COURT: That was the date you arrived?

A Yes. The day of the stranding was the day we arrived in Casablanca.

THE COURT: I think everybody agrees that is February 26th, don't they?

A February 26th.

Q What time was it on the 26th?

A What's that--1315?

What was the time I had on the top of that chart? 1530?

Q The time of arrival.

A What was it up there?

1530.

Q I show you Defendant's Exhibit D. Do you have a position and time on the chart?

A Yes.

Q What time do you have?

A The position and time up here is stop. I have a stop and that would be the first stop bell in the book, which is 1537.

Q Why did you stop there?

A Well, we stopped so that if anything goes wrong like the rudder or they lose the plant, the ship will stop before she gets in the ground. It takes--

Q When you say stop, you mean--

A Stop the engines.

Q That doesn't mean stop the ship physically?

A No.

Q What is the procedure on taking arrival? Could you describe that for the Court?

A Well, the engineers usually have a notice as much ahead of time as possible, at least an hour, and they know when we are going to arrive or give them the arrival and they adjust the valves, the speed, the fuel and oil supply and prepare for maneuvering.

Q What would your speed be after these preparations are made?

A The revolutions at that time would be about 78 to 80. Drop down from about 84 or 5 normally.

Q What would your speed through the water be in

knots, to the best of your ability?

A At the most it would be 12, possibly less, 11.8 to 12, depending on the time, speed, depth.

Q I would like to have you explain for the Court what happened from that point on, where you stopped your engines, Captain, until you went aground, in your own words. Just tell the Court and if necessary, to get the proper times, you may refresh your recollection from the bell book and the log book.

A Well, here at 1530 we took an arrival and seven minutes later we had a radar bearing off the end of the pier and got that distance off. I am quite sure I had another. The distance ring, variable distance ring on the radar, we run it up to the one of these other buoys. I believe it was CA-3

Also, off the end of the breakwater and we were approaching on this course 125 with the buoy CA-5 dead ahead, which is where we were supposed to pick up the pilot and we were coming in and the speed was falling off all the time and we had small boats on port and starboard bows and there was a vessel departing from the harbor, the closest side--no, pardon me, retract that--there had been a vessel as we were out here.

Before we reached this 1530, a vessel was

coming in, small vessel had come in. And she had passed on my side of the buoy because the buoy, I could see she had passed on my side of the buoy and as we come in a little closer, another vessel was leaving. He left on the other side of the buoy, close by, and there was no pilot alongside the buoy. I saw that the previous vessel coming in had stopped right out here, just inside the breakwater, which I assumed he was taking a pilot aboard and the other vessel did not stop to put a pilot off at the buoy.

I assumed he had put the pilot off inside. And coming in, this other vessel, he was right, when I was approaching the buoy, he was coming up on the buoy so I came to the right to pass under his stern, give him more clearance, so at that time to make sure I had steerageway on the vessel, I had to give her a kick ahead to get more water past the rudder to make it turn easier, faster, and perceived this other vessel had gone on in the clear and then I see the pilot was boarding on the inside and no pilot out here, I proceed on in.

My plan had been to, once I get the bow up, across the line of the breakwater, is to come hard right and then full astern. That would swing the ship faster and be right in line for the, probably stopped by the

time I reached the pilot.

Q Captain, I have here two radio messages. Could you identify those, please?

A Yes.

Q What are they?

A Well, messages received on the Potomac the day of the stranding.

Q Now, would you read them for the Court, please?

THE COURT: Well, excuse me a moment. I am a little confused.

These are not in evidence, I don't think.

MR. SMITH: All right.

MR. SCHULMEISTERS: Mr. Smith, are these the messages that are from Exhibit V?

MR. SMITH: They are two radio messages out of all the radio messages that were sent and received by the Potomac on that particular voyage.

MR. SCHULMEISTERS: Which was previously Exhibit V, right?

THE COURT: Well, may I suggest that because of this latest confusion, you show these to Mr. Schulmeisters.

MR. SMITH: These messages are two of many, many

messages that were in a sheet which were marked as an exhibit on a prior deposition. The only two that we feel are pertinent are these two so we would like to have--

THE COURT: Why don't we mark these, then, as Defendant's Exhibit B-1, B-2.

MR. SCHULMEISTERS: Your Honor, I think V as in Victor and V-4 and V-5 at the deposition of Mr. Smith numbered and these are numbers 4 and 5.

THE COURT: Then you mean V as in Victor.

MR. SCHULMEISTERS: V-4 and V-5.

THE COURT: It's agreed these were incoming or outgoing?

MR. SMITH: These are incoming. That was the testimony.

I would like to offer these in evidence at this time as two messages received by the Potomac on that voyage to Casablanca.

MR. SCHULMEISTERS: No objection.

(Defendant's Exhibit V-4 and V-5 received in evidence.)

Q Who were those two messages from?

A They were from, one is from the--our agent in Casablanca and the other was from the charterer's agent in Casablanca.

Q Now, what does the first one say with respect

to the pilot's station? That would be the Exhibit V-5.

A Pilot boarding buoy CA-5.

Q What does the other one say?

A Berthing upon arrival, please come closer buoy CA-5 for enabling pilot.

Q What were the weather conditions as you approached Casablanca?

A Clear, small swell, low swell and very little sea.

Q Prior to entering Casablanca did you do anything in preparation for the arrival?

A Studied the charts and read the sailing directions.

Q And that would be Exhibit H?

A This book right here, H.

Q And the charts that we previously marked, is that correct?

A Yes.

Q I refer you to the sailing directions for Casablanca, which start on page 219.

Did you read these sailing directions prior to the time you arrived at Casablanca?

A Yes.

Q I refer you specifically to the first paragraph

and the reference to the outer extremity of the breakwater.

Did you read that?

A Yes.

Q What did that mean to you when you read it?

A That there is an underwater extension on the breakwater.

Q Did you compare that with the chart?

A I looked at the chart. I didn't make any comparisons on the distance. I noted it. The chart showed an underwater extension and I assumed the chart was correct as it was a later edition than--it was two years newer than the sailing directions, the last change in the sailing directions.

Q Now, I would like to have you measure that distance on the chart now, Captain, and tell the Court what it is from the end of the visible breakwater to the end of the underwater breakwater.

THE COURT: It might be helpful if we knew which one of the many charts we were referring to.

THE WITNESS: This is Exhibit D.

Q Now, this is the--

A This is 51222.

Q This is the original chart that you had on

board, Captain?

A Yes.

It's about 250 yards.

Q About 250 yards, is that correct?

A That's correct. Roughly 250 yards.

Q How do you account for the difference between the 250 yards on the chart and the 400 yards in the sailing directions?

THE COURT: Well, what are we referring to? From what to what? 250 yards is meaningless in this context, unless we know what we are measuring.

Q The dotted line showing the underwater extension on this breakwater as it appears on this chart, D, is about 250 yards, the dotted lines.

Now, the difference between that and the 400 yards as listed in the sailing directions to me could mean that since the chart shows work in progress, which is a later issue, that the difference, 150 yards, could mean that they have extended the end of the breakwater--I mean the visible part of the breakwater has been built out that far.

MR. SMITH: Your Honor, I have a portion of the chart, if you would like to use that as a reference as he testifies.

THE COURT: No. I am just digesting the answer here.

Just a second, please.

MR. SMITH: I would like to have the piece of the chart that the Captain is now referring to marked as Plaintiff's Exhibit 111 for identification.

(Plaintiff's Exhibit 111 marked for identification.)

Q Captain, would you mark on this section of the chart that you are looking at, which is now marked as Plaintiff's Exhibit 111 for identification, the dimension that you just mentioned, 150 yards? Could you put that down on the chart to demonstrate to the Court what you meant?

MR. SCHULMEISTERS: Your Honor, I think first of all, may I see that excerpt that you have?

I don't see any scale on this so that any measurements can be made on that.

THE COURT: I am not sure that is what is intended but something bothers me more than that.

I think you just said 150 yards, Mr. Smith, and I don't think that is what you meant to say.

MR. SMITH: Yes, it is, your Honor.

THE COURT: You mean the differential

between 250 yards which Captain Hansen measures, roughly, and what he says is the 400 yards referred to in the sailing directions, Exhibit H?

MR. SMITH: Yes, but he referred to 150 yards in his testimony as the extension--

THE COURT: Please. We are only monkeying up an already confused record. Hear me out patiently.

The 150 yards you mean to refer to is the difference between the so-called 400 yards referred to in the sailing directions and the 250 yards which he measures off roughly on the chart, is that so?

MR. SMITH: No, your Honor.

THE COURT: Then I am really confused.

MR. SMITH: His testimony was that the 150 yards difference was in addition to the visible part of the breakwater.

THE COURT: I don't want to get into that. I just want to roughly know what we are talking about. I don't want any misstatements on the record. It's already fudged up a bit without any unwitting mistakes, you see; that is all I am concerned about.

Let's start over. One thing at a time.

What's your problem now with this exhibit?

MR. SCHULMEISTERS: We don't have any scale on

this and I object to this type of measurement. I think the sailing directions are quite clear as to what it is, 400 yards, and now this is a measurement backwards and I think that is highly improper.

THE COURT: One thing at a time.

I take it that Plaintiff's Exhibit 111 is nothing but a blow-up of some kind of a small portion of 51222, correct?

MR. SMITH: No, your Honor. It's an exact xerox copy of it. It's not blown up at all. It's just a small section for the convenience of the Court and the witness--

THE COURT: In other words, you just want to use it as a convenience matter and as a diagram.

MR. SMITH: Yes, your Honor, the measurements can be taken off the original document.

THE COURT: All right.

MR. SCHULMEISTERS: Your Honor, if I may be heard, some of the earlier xerox machines did not change the size of the copy but some of the later ones have a curved face on it and they do change size.

THE COURT: We are not taking this as any kind of an accurate chart, Mr. Schulmeisters. That's the point of my questioning Mr. Smith and he has answered it.

I quite understand. Plaintiff's Exhibit 111 will just be an aide memoire for diagrammatic purposes and it will not be considered an accurate chart.

Now, with that, the record is abundantly clear at least on that point.

Now, let's get down to the next question.

What is it you want to ask Captain Hansen?

MR. SMITH: Well, your Honor, it seems to me that I have to start all over from the beginning to do this again, ask him the same questions because it's clear to me what his answer was.

THE COURT: Well, look, I am not arguing about that. I just want you to ask your next question, whatever it is.

You are the one that wants to use Plaintiff's Exhibit 111. What is it you want to ask him about it?

Q Captain, when you looked at the sailing directions and the chart, what did the 400 yards mean to you?

A Well, the sailing directions, when they were printed, or the last change, 13, for the sailing directions were printed, the distance out there from the end of this submerged section back to the end of the breakwater, the visible breakwater at that time, was 400 yards. In the two years or a month and-- a year and 10 months between

that time, they had built on to the end of the visible breakwater 150 yards. The sailing directions say nothing about work in progress. The chart shows work in progress.

Q Captain, I refer you to Plaintiff's Exhibit 13-A, which is a French chart in evidence and would ask you to measure the distance from the jetee which is perpendicular to Jetee Delure to the visible end of the jetee itself.

A It's almost 300 out there.

Q Almost 300 meters?

A Almost 300 meters.

Q Would you take Plaintiff's Exhibit 111 for identification and measure off 300 meters--

MR. SCHULMEISTERS: May I look at what he is doing, your Honor?

THE COURT: Yes, you certainly may.

Q You tell the Court what you are doing.

A I am measuring off almost 300 meters. I will make it a little bit less than 300 meters.

Q Would you mark that on Plaintiff's Exhibit 111 for identification? Would you use this black pen?

(Witness marks.)

Q What does that measurement indicate to you, Captain?

A That shows the distance from this vertical

part of the vertical extension of the breakwater out to the end of the breakwater and there seems to be a difference between the American chart and the French chart.

Q What is that difference? Will you measure it, please?

A On here it's almost 100 yards; a little over 100. About 100 yards, more or less.

Q What does that indicate to you?

THE COURT: He's already answered that.

A The breakwater extends further than what it shows on the chart.

This is the end of it on the chart, here we are, here, on the chart.

THE COURT: Would you show me how you marked off the 300 meters because I don't understand where you put your marks.

A The 300 meters was off the French chart.

THE COURT: I understand that but where did you put the point when you measured with your device?

A 300 meters, right here on the end of this, east end of the vertical extension of the breakwater. This way.

(Indicating to the Court.)

THE COURT: Thank you.

MR. SMITH: I would like to offer Exhibit 111 into evidence, your Honor.

(Plaintiff's Exhibit 111 received in evidence.)

Q On your navigating chart, Captain, I see that there is a dot off the end of the underwater extension of the breakwater.

Could you tell what that dot represents?

A Well, I believe that represented the two-tenths of a mile off the end of the visible breakwater.

Q How did you determine that?

A Well, by radar.

Q On Plaintiff's Exhibit 111, I would like you to measure two-tenths of a mile off the end of the mark that you put on this chart.

(Witness marks.)

Q Would you just put a dot there where your dividers are?

(Witness marks.)

Q Would you put a circle around it?

(Witness marks.)

Q Now, what does that dot represent to you now, Captain?

A That dot is two-tenths of a mile off the visible end of the breakwater.

Q Is that dot closer to the breakwater or closer to the buoy?

A It's closer to the buoy.

Q How many vessels, Captain, have you been on since January of 1967?

A Two besides the Potomac. Up to the time of the stranding.

Q Have you ever seen a pilot chart with, on the reverse side, a buoyage system for some part of the world?

A I believe I have, yes.

Q Do you recall which countries the buoyage system represented?

A No.

THE COURT: What cargo was the Potomac carrying out of Galveston?

A Bulk wheat.

THE COURT: How much did you have aboard?

A I don't recall exactly. Possibly 21, 22,000 tons.

THE COURT: Had you ever put into Casablanca harbor before?

A No.

Q What was your draft, Captain?

A 33? I would have to look at the record.

Q Well, you can refresh your recollection from the log book, if that will help you.

A 33 feet aft; 32-6 forward.

Q What would the mean draft be approximately?

A It would be 32-9.

Q I have here Plaintiff's Exhibit 103 and ask you to look at that on both sides.

A Pilot chart of the North Atlantic for March 1967.

Q Well, just to yourself examine it.

A Yes. This shows buoyage and beaconage for a number of countries.

Q Have you seen this chart before?

A I Am not sure of this exact chart. I saw a chart showing some buoys on the back. I know this is sheet number 2. There was possibly a series.

This is the second of a series of four pilot chart articles. I am not sure what ship I saw it on.

Q Do you keep pilot charts as permanent records?

A No. They are issued monthly and they are-- we keep them up to date for the latest month issued.

Q For how long do you keep them?

A Usually until the next one is issued. That would be twelve months. The old ones, the crew usually grabs, the second mate gives them to somebody. The crew uses them for track charts.

Q Where do you obtain information on the buoyage systems of the world?

A Sailing directions.

Q I refer you to Defendant's Exhibit H and ask you if there is any reference to buoyage systems in Plaintiff's Exhibit H.

A Chapter 1, in the index is listed here, general remarks, pilotage, buoyage, signals, tides, currents, etc.

Q Would you turn to Chapter 1, please, and see if there is anything about buoyage there.

A No.

Q You have turned to Morocco. Now, is there anything about buoys at all for other countries?

A Here it is, buoyage in here for Spain.

Q There is nothing for Morocco, though, is that correct?

A Nothing for Morocco about buoyage systems.

MR. SMITH: Would you mark this as Plaintiff's Exhibit 112 for identification, please?

THE COURT: Certainly.

MR. SMITH: Your Honor, I will have to call a witness from the Hydrographic Office to put this information in evidence.

THE COURT: Well, now, look. That is patently absurd. Again, you are missing the point. The fact of the matter is that I will hear no more about Plaintiff's Exhibit 112 for identification from Captain Hansen, in view of what he said in response to my question.

Now, calling somebody from the Hydrographic Office for that is like bringing in a 150 millimeter howitzer to shoot down a housefly. Come on, let's stick to our knitting. This is just the most confusing way of going about proving a case.

Let's go on with Captain Hansen; he is here. We will worry about calling witnesses for unimportant points later.

Q Captain, if you had read in the sailing directions, Defendant's Exhibit H, that you should not pass between the end of the jetee and buoy CA-5, would you have done so on February 26th?

MR. SCHULMEISTERS: I will object.

THE COURT: Sustained. First of all,

Captain, did you read or did you understand any portion of what you read in those sailing directions to state or infer that you should not pass between CA-5 and the visible end of the jetee?

A There was nothing in the sailing directions that were aboard the ship about not passing between the jetee and CA-5.

THE COURT: At least as you understand them.

A Yes.

THE COURT: All right.

Q What is the meaning of this dotted line that runs around the end of the jetee?

A That's the six-fathom curve--

THE COURT: We are looking at Exhibit what?

MR. SMITH: This is Defendant's Exhibit D, the original chart.

THE COURT: That's all I want to know.

I am doing this, Mr. Smith, because, again, unless you make it clear, that record isn't going to be any help to you.

A This exhibit, the chart, Exhibit D, shows a six-fathom curve close alongside this dashed line which shows the underwater extension of the breakwater.

Q What does that mean to you as a mariner, Captain?

A That means there is, outside of that six-fathom line, there is at least 36 feet of water.

MR. SMITH: I have no other questions.

BY THE COURT:

Q Captain, you told us that it was your plan, as you made your approach, to come off the end of the Jetee Delure and then go hard right and stop. Did I understand you correctly on that?

A Go a hard right, full astern and stop.

Q I missed the full astern on that.

Was that for the purpose of squaring your vessel away to await a pilot? Is that what you are saying?

A That is to make a faster turn.

Q Well, in part but--

A Yes, also, by the time--she doesn't stop, you still have weight upon the ship and by the time we get in there, by the time the ship would stop, I would be inside where the pilot was.

Q But you did anticipate picking up a pilot, is that what you are saying?

A Inside the breakwater, I anticipated a pilot, where the previous vessel had slowed down or stopped to pick up, a period to pick up a pilot.

Q Do you recall the coloring of CA-5 buoy as you sit here today?

A Black with--and it first appeared to have red on it. It later turned out that was rust on it but there was no clear marks, vertical, horisontal, as buoys usually are, or checkered, but there was a lot of red showing, which turned out to be rust.

CROSS EXAMINATION BY

MR. SCHULMEISTERS:

Q Captain Hansen, would you look at page 220 of Exhibit H and that first paragraph, dealing with buoys--does that refer to buoy CA-5?

A Yes.

Q So is that the whistle buoy that according to the sailing directions is close off the underwater portion of the breakwater?

A That's it, I assume that would be CA-5.

Q Prior to going to Casablanca, you assumed that CA-5 was that whistle buoy that was close off the underwater extension of the breakwater?

A That would be off the buoy.

Q Prior to--

A Wait a minute. This was never brought--may I continue on that last question?

Q I think you have answered my question, thank you.

THE COURT: Go ahead.

Q Prior to going into Casablanca did you know what the buoy system was in Casablanca?

A No. I assumed it was American, U.S.

Q Did you know that at one time Morocco had been a French colony?

A Yes.

Q Did you know what the French buoy system was?

A Yes.

Q Did you know that it was opposite to the American system?

A Well, other French colonies or former French colonies have the American system--out in Viet Nam, Viet Nam was--

Q Did you have anything that indicated to you that the Moroccan system would be different from the French system?

A All I could do is go by the chart and the sailing directions. There is nothing about a different system in the sailing directions. The chart shows a black buoy. U.S. chart, U.S. system.

Q And how did you originally intend to leave that

buoy?

A I approached it dead ahead. I was going to pass it close on my port side and pick up the pilot there, say within a ship's length or half a ship's length. The pilot not being there and being inside, I proceeded inside to pick him up, as the previous vessel had.

Q Is it not true that you really originally intended to leave the buoy to starboard as you came in?

A I originally intended to leave that buoy on my port side as I went in and since I have--I have since read in the sailing directions, the original issue of the sailing directions, that it was prohibited to pass between the end of the visible part of the breakwater and Buoy CA-5 which no longer appears in the sailing directions.

MR. SCHULMEISTERS: I move to strike the last answer as being unresponsive.

THE COURT: Well, I see your point but I will consider that as to the weight which it deserves.

MR. SCHULMEISTERS: May I please have the other cables?

I would like to mark these as V-3 and 11 for identification.

(Defendant's Exhibits V-3 and V-11 marked

for identification.)

Q Captain Hansen, you testified that you expected to pick the pilot up inside the breakwater.

A Previous, before arriving there, I expected to pick him up at buoy CA-5.

Q Did you receive a message that the pilot would be at buoy CA-5?

A I believe I just read it there.

Q That's Exhibit V-5, is it not?

A Yes.

Q Now, did Exhibit V-5 also contain some other language that you did not read in response to Mr. Smith's question?

A Berthing immediately upon arrival--

Q Actually, I am referring to the second sentence, starting with--

A "Please keep contact as from 1500 with pilot station channel 12 VHF."

Is that all?

Q Yes, thank you.

You received this message, right?

A Yes.

Q Did you contact the pilot station with a VHF?

A We don't have VHF.

Q You did not have a VHF?

A Did not have VHF.

If I may add, I have sometimes referred, used the phrase VHF as any voice communication.

Q Do you remember when you testified in December 1972?

A I remember testifying at that time, yes, sir.

MR. SCHULMEISTERS: First I would like to mark for identification the Captain's deposition on December 15, 1972, as Defendant's --

THE COURT: Well, excuse me, but, again, my recollection is that we already have Captain Hansen's deposition marked here.

MR. SCHULMEISTERS: No, it has not been marked.

THE COURT: Well, I thought Mr. Smith was going to offer it and had it marked.

MR. SMITH: No, we didn't mark it, your Honor. We didn't get that far the first day.

THE COURT: All right.

MR. SCHULMEISTERS: This is the beginning of his--

THE COURT: You want to mark it as what?

MR. SCHULMEISTERS: As Defendant's Exhibit QQ for identification.

(Defendant's Exhibit QQ marked for identification.)

MR. SCHULMEISTERS: Actually, there are three volumes of it. Two of them are examinations before trial and one of them is Mr. Smith's de bene esse deposition.

THE COURT: Are we marking all of them?

MR. SCHULMEISTERS: I will eventually.

Should I mark them at this time?

THE COURT: I just don't know what you are dealing with, you see, as so frequently--

MR. SCHULMEISTERS: Maybe we better mark all of them.

That was not completed, your Honor, and the continuation took place on June 21, 1973, which should be QQ-1.

(Defendant's Exhibit QQ-1 marked for identification.)

MR. SCHULMEISTERS: And the original deposition de bene esse taken by Mr. Smith was on June 22nd and let's mark that as QQ-2.

(Defendant's Exhibit QQ-2 marked for identification.)

Q Let me re-ask the question.

You did not have a VHF, is that correct?

A No VHF.

Q Would you please read, on page 144, what you said on your deposition on December 15, 1972; and I refer you to lines 17 through 22. Please read it to yourself.

(Pause.)

A I have read it.

Q Is it true that on December 15, 1972, you did state that you were in touch with pilots on the VHF? Right?

A That's what it states here but, also, in my previous answer, I said I have used the phrase VHF as meaning any voice communications and in this case, I was in contact with him through our radio operator, who contacted the agent, who contacted the pilot on the phone.

I answered your question broadly.

Q Did you yourself at any time contact the pilot station with a VHF?

A No.

Q Did you, subsequent to Exhibit V-5, receive another cable which has been marked V-3?

A Yes.

Q Would you please read that cable?

A This is to the master of the Potomac and from the agent. "Despite delay, doing best for your berthing.Stop. Please immediately contact pilot through Casablanca radio phone 755-15, repeat 755-15. Stop. Regards."

Q Did you get in touch with the Casablanca pilot by radio?

A Now, I don't remember. Could you refresh my memory out of something in the previous testimony?

Q Yes, I think I can.

A I believe I had the radio operator doing all this contacting for me.

Q Do you recall whether you personally contacted the pilot or spoke to the pilot?

A I don't believe I did, no. I was busy on the bridge. The telephone was a deck below.

Q Your recollection now is that you did not actually contact the pilot, right?

A I do not belive I personally contacted the pilot.

Q Did any watch officer speak to the pilot, any navigating officer speak to the pilot?

A I am not sure now. As I stated, I believe the radio operator was talking to the agent, who had the pilot on the phone or the pilot's office on the phone.

Q What did he tell you?

A I don't recall. Could you refresh my memory on any previous testimony?

Q I think I can. Just a moment.

Would you look at pages 56 through 58 of your deposition taken by Mr. Smith?

Do you see the bottom of 57 and the top of 58?

A Bottom of 57?

Q Let me ask you this--was this question asked and did you give this answer?

"Question: Did you or anyone on the vessel to your knowledge prior to stranding have any conversation over the radio telephone with the pilot at Casablanca or the pilot station at Casablanca?

Answer: Right now I can't remember but I doubt that we had direct contact with the pilot. We tried to. You couldn't get hold of the pilot and then talk to the agent, instead, or agencies."

Was that question asked and did you give that answer?

A I am confused here, now, on what you want.

Are you quoting from this book you gave me?

Q Yes. I was reading the testimony and I am asking you, was that question asked and did you give that answer?

A If it's there, I must have.

What line was that on page 57?

Q 57, starting on line 25 on the bottom and on the top of page 58.

Now, do you recall that question and answer?

A Yes, it's familiar now.

Q And that shows that you did not get in touch with the pilot, does it not?

A No. I never had direct contact with the pilot.

Q Would you please look--

A I Used the word, "I" here in this testimony as I am responsible for everything on the vessel and--

Q But actually you had received instructions to contact the pilot station?

A Yes.

Q And you did not do so?

A We couldn't. This is right in here in this testimony.

MR. SCHULMEISTERS: Your Honor, I would like to offer V-3 in evidence; that is the cable concerning the

collecting himself, I would like to ask you a couple of questions, if I may.

BY THE COURT:

Q First of all, did you have a copy of Bowditch on the bridge or somewhere?

A Yes, sir, both the old and new.

Q Did you have occasion to look at the section on Bowditch before you approached Casablanca's pilot light, CA-5?

A Not that voyage but I have, I am familiar with the Bowditch, through the years. I have referred to the book.

Q Well, you will agree, will you not, that the editionsover the years have had quite an extensive chapter or sections devoted to the world buoyage system?

A Is it world buoyage or just American buoyage?

Q I asked you world.

A World buoyage? I am not familiar with the world buoyage.

Q When I say world buoyage, I mean countries in the seven seas and not necessarily confined to the United States of America.

A I am not familiar with any foreign buoyage in the Bowditch.

Q All right. Now, nobody seems to have asked you what happened about the stranding. Do you remember you were asked by Mr. Smith as to what your plans were but you were never allowed to tell us at what point the stranding occurred and what position you were in when the stranding occurred?

Could you tell us?

A The position of the vessel?

Q Do you remember you were allowed to go only so far and then we got off on other matters and perhaps this was inadvertent but you were proceeding, as I understand it, up a ship's length or perhaps a ship's length of the CA-5 off your port bow, right?

A No. It was dead ahead and then I came to the right and I was--

Q When you say you came to right, what do you mean?

A We changed course.

Q You turned hard right?

A No. Not hard right. We just came to right, maybe 10 or 20 degrees of rudder, approximately 20 degrees to get her to turning and then drop back to 10 degrees to get it turning. At the time of the stranding I was heading possibly 160 degrees. I believe that is right.

Q All right. A heading of 160.

Now, at that point, about how far were you away from the visible end of the Jetee Delure?

A Well, on it, just visibly, looking out there, the buoy appeared closer than the end of the jetee. Now, on the radar, it showed just a little bit over 2/10's of a mile, on the radar.

Q That's right. You did tell us that 2/10's of a mile. But now, what speed were you going, about, at this time?

A I imagine at that time it was about three knots, a little less, a little more. Two to three knots.

Q And then what happened?

A I could feel her--she struck, there was something on the bottom, shallow, pulled on up a little further and she just came to a stop.

Q Now, is it fair to interpret what you have just said that when you stranded, the radar showed that you were 2/10's of a mile off the end of the jetee?

A Yes, sir.

THE COURT: Thank you very much.

Forgive me, Mr. Schulmeisters.

CONTINUED EXAMINATION

BY MR. SCHULMEISTERS:

Q Captain Hansen, does the sailing directions give you the pilotage area, the northern end of it?

A Pilotage is compulsory between Table D'Oukacha and bounded on the north by the parallel of 33.37.40 north.

Q The Table D'Oukacha, where is that?

A That's this (Pointing).

MR. SCHULMEISTERS: I have a chart that appears to have been marked Defendant's Exhibit J for identification.

THE COURT: Defendant's what?

MR. SCHULMEISTERS: J for identification, which is a photocopy of Exhibit D with some markings on it.

(Defendant's Exhibit J marked for identification.)

Q This light, Table D'Oukacha, has that been identified with the letter previously on Exhibit J?

A Yes; letter B.

Q Does Exhibit J also contain the latitude 33 degrees 37 minutes 40 seconds north?

A Yes.

Q Do you recall that you labeled that--

A We measured that earlier in the testimony.

Q Yes. Is that line north of buoy CA-5.

A It is north of buoy CA-5.

Q Would you please measure how far it is north of buoy CA-5?

A Approximately one-tenth of a mile.

Q Would you take that off and mark it on Exhibit 111, please?

A One-tenth of a mile?

Q Yes.

A Do you want me to mark it with a pencil?

Q I'll give you a pen.

A That's enough? Just a line?

Q Would you please also draw a parallel line going east-west through it, showing that latitude, on Exhibit 111?

(Witness marks.)

Q Would you label that line 33 degrees 37 minutes 40 seconds north?

(Witness marks.)

Q That is the pilotage area, is it not? South of that line is the pilotage area?

A Yes.

Q And the sailing directions says that the pilotage is compulsory in Casablanca south of that line, does it not?

A Yes. It says it is, pilotage is compulsory south of that line but vessels may enter the port at their own risk.

Q When?

A If there is--should bad weather and the state of the sea prevent the pilot from coming out.

The skipper on the pilot boat could have interpreted the swell as being bad weather.

Q Do the sailing directions also say anything about a signal for bad weather on the pilot station?

A The signal station is located on the grain elevator.

Q What does it say about the signal?

A One red flag on top of the mast indicates the state of the sea does not permit a pilot to go out.

Q And you did not see any red signal, did you, on that day?

A No red signal, no pilot.

Q And the instructions for the cables to you were that the pilot would meet you at buoy CA-5, is that correct?

A Yes.

Q And you did not see it and nevertheless you proceeded inbound, did you not?

A No. Right.

Q That is contrary to the information you had in the sailing directions, is it not?

A No.

Q It's contrary to what you had in your cable that was sent to you.

A Well, that was--that's the usual position for the pilot to meet the vessel is at, in this case, at CA-5 but there is no pilot there; he is waiting inside where the previous vessel or two vessels had picked up and dropped pilots, inside.

Q But you had never been to Casablanca before, had you?

A No.

Q So you did not know other than what you received in the cables and what you read in the sailing directions as to where the pilot would board?

A Yes. I just stated that because the two previous vessels, the experience is that they go in and pick the pilot up inside this transverse extension of the jetee.

Q Were they the same size as your vessel?

A They were both smaller than this vessel.

Q So, is it correct that what you were doing,

you were following the other vessels in?

A No. I was not following them in. They went in way ahead of me. I was going in to pick up the pilot, which I have frequently done in many ports.

Q But despite instructions and advises to the contrary, you did something that was contrary to the instructions and was done by a vessel before?

MR. SMITH: Objection, your Honor. The record doesn't show that his action was contrary to the information he had. I think that is an unfair question.

THE COURT: I am not sure I agree. However, for quite a different reason I think the question ought to be rephrased.

That last dangling clause, if I understand it or heard it, was unintelligible in any event so rephrase it.

Q What you did, Captain Hansen, was something that was not in accordance with the cable advices and the sailing directions information that you had; is that not true?

A The agent's advice of picking the pilot up there was, I imagine, normal procedure in all ports, telling you where the pilot, where you will pick up a pilot and it often varies--the pilot is not outside and I think I gave theprevious testimony that a place like Port Said, they said, on the chart it shows the pilotage, you not only go

inside without a pilot; you go through the inner breakwater without a pilot aboard.

Q But you had not been to Casablanca before?

A No, and I had never been to Port Said before.

Q And the instructions for Casablanca say at buoy CA-5, do they not?

A And buoy CA-5 is within the vicinity of CA-5.

Q And the pilotage zone starts north of CA-5?

A He has an area, yes. North of CA-5.

Q And buoy CA-5, according to this sailing directions, marks the underwater extension of a breakwater, does it not?

A Marks the underwater extension?

Q Of a breakwater.

A No. The underwater extension of the breakwater is on the chart as a dotted six-fathom line. Everything outside this dotted six-fathom line is more than enough water for the vessel to pass over.

Q Does not the sailing directions say that the buoy is close off the underwater construction?

A This--

Q Please answer the question. Does it or does it not say that it is close off?

A It doesn't say buoy CA-5. There could be another

buoy referred to that no longer exists that could mark the underwater.

If you notice the previous testimony, you have a letter that I wrote to the shore, port Authorities, asking them why they did not put a buoy marking the underwater extension of the breakwater.

Q But you previously just agreed that this--

A No, I didn't agree to that.

Q That the sailing directions was the only--

A CA-5 is the only one that is visible there. This did not mention buoy CA-5. This is CA-5.

Q This is the only whistle buoy, is it not?

A Right. There could have been another one here.

Q But you did not see one?

A No.

Q And you only saw one buoy there?

A Right.

Q Does that then not mean to you that this buoy is close off the underwater construction?

A That word close is relative, after--

Q As far as you were concerned--

A It was not, as far as I am concerned at the time, it being right there, making my approach, that buoy

was not close off the end of the breakwater.

Q Prior to going into Casablanca, did you ever measure the 400 yard distance in the sailing directions on the chart?

A No.

Q You did not?

A Did not measure the 400. I assumed the chart was correct.

Q Had you measured that distance, would you then have passed within 400 yards from the breakwater?

A Yes.

Q Would you please turn to page 53 in Exhibit QQ-1.

Now, let me read some questions and answers to you, starting at page 53, line 13.

"Question: Within the last 10 seconds before stranding, did Mr. Hunziker stand by the radar and give you distances off?

Answer: He gave me one distance off when I told him to check it and I was watching carefully . He gave me a distance off. Then I checked him and so, before we made this turn, that is when he made distance off and I checked it for distance off and I think we were north, passed north of it."

"Question: North of what?

Answer: The end of the breakwater as I recall now. That was where I made a mental image of the chart so I wouldn't have to check the chart so often because it was in the chart room.

Question: Now, Captain, at that time, did you also have in mind the information contained in the sailing directions that the outer extremity of the breakwater is submerged for a distance of 400 yards?

Answer: Let me give you a statement here and then maybe you will have to rephrase the question. If it isn't the right answer.

Question: I would like an answer to my question.

Answer: Repeat the question.

(Question read back.)

Answer: Not 400 yards. I read it in the sailing directions. I assume I can check up on all the corrections. I saw it had an underwater extension and assumed what was shown on the chart was the end of the extension.

Question: But you knew it was 400 yards?

Answer: I didn't step it off on the chart.

Question: Did you have the distance in your mind?

Answer: I had in my mind the one shown on the

chart. I stepped it off the chart to show how far I had come up from the end of the breakwater on here.

Question: Step off the distance on the chart now please.

Answer: About 200, right ? The one on the chart shows about 250 yards.

Question: So at that time, within the last ten seconds prior to stranding, what you had in your mind is 250 yards, not 400 yards.

Answer: That is what is shown on the chart.

Question: BUt previously you had read the extension as 400 yards.

Answer: When I read before arrival, when I read the sailing directions, I just noted that there was an underwater extension and saw it was on the chart and assumed it to be correct.

Question: So is it correct to say that within the last minutes prior to stranding you did not have in your mind the distance of 400 yards?

Answer: Not the distance. I had in my mind prior to stranding was the distance shown on the chart.

Question: Which is 250?

Answer: 250.

Question: And at no time prior to stranding

did you ever measure the 400 yards on the chart?

Answer: Not the 400, no.

Question: SO is it correct that when on your radar you saw a distance of approximately 400 yards off, you thought you were in safe water?

Answer: Well, that sounds--I didn't--the distance was coming in there. It looks like it was safe. Deep water, all right to come in 450 yards, what did we measure, four, 425, 430.

Question: That was the measurement you made?

Answer: Yes. So I assumed 400 yards was clear.

Question: Had you thought of the 400 yards mentioned in the sailing directions, you would not have gone that close, is that correct?

Answer: Yes, if I had stepped it off and noticed the extension was 400 yards I wouldn't have gone in.

Do you remember those questions being asked and those answers given?

MR. SMITH: Your Honor, I would like to have the rest of the answer finished. It was only half of the last answer.

MR. SCHULMEISTERS: There is another sentence, your Honor, but I think--

MR. SMITH: I would like to have it read.

MR. SCHULMEISTERS: I would like to have the answer to the question the way it is.

THE COURT: Since I didn't have the EBTs, you are talking Greek to me. I don't know what you are talking about, either of you.

MR. SCHULMEISTERS: I will read the whole last question.

"Question: Had you thought of the 400 yards mentioned in the sailing directions, you would not have gone that close, is that correct?

Answer: Yes. If I had stepped it off and noticed the extension was 400 yards, I wouldn't have gone in but I would have had to check the chart out and I have to assume that the charts are corrected."

That's the full answer. Now.

Q Were those questions asked and did you give those answers?

THE COURT: Does that include what you thought he left out?

MR. SMITH: Yes.

THE COURT: All right.

Q Were those questions asked, Captain?

A That's our testimony.

Q And that was the truth?

A We were--I assume it was. To the best of my recollection at the time, that was the truth.

Q Now, Captain, prior to today had you at any time in any one of your prior testimonies, have you ever said anything about believing that part of the 400 yard underwater construction mentioned in the sailing directions you thought had been further extended?

A You mean for the 150?

Q That's right. The ones you measured on 111.

MR. SMITH: Objection, your HOnor. That's an unfair question. There is 400 pages of testimony that the Captain has given on EBT's and I don't know that he can--

THE COURT: I nevertheless don't think it's an unfair question. If he can remember, I think it's a fair question.

Let's put it to him so you are satisfied with the content of your own question and he is satisfied that he understands you. Put it again.

Q Prior to today, Captain, did you at any time testify 150 yards off of the 400 yard underwater extension had been completed?

A There was never a question for me to answer on that 150.

Q You gave also an original deposition de bene esse testimony by Mr. Smith, did you not?

A Whatever that is. I testified twice with the two of you.

Q Have you seen any of your prior testimony before coming here today?

A Yes, sir. Yesterday I looked at some; not all but some.

Q Have you seen Exhibit QQ-2?

A I believe that was there.

Q And that's the examination when Mr. Smith started to examine you, is it not?

A Yes.

Q At that time, during that examination, were you ever asked by Mr. Smith whether any part of the 400 yards represented an extension of the visible part of the breakwater?

A No.

Q And your previous testimony was that prior to going into Casablanca you had never measured the 400 yard extension on a chart?

THE COURT: That's already asked and answered.

A You asked me before.

Q When was the first time that you ever discussed

with anyone this completion of the underwater extension by 150 yards?

A Let me see--I thought about it. Never came out i n testimony.

MR. SCHULMEISTERS: Would you please read back the question.

A The question was when and I am trying to recall when.

I don't remember when. It could have been between the first and second testimony. It could have been at the time but I assumed--it's just one of those things. No question ever came out. I might have thought about it when I read--when I first read the pilots, the difference came out and it was there but you never asked a question and Mr. Smith never asked a question about it.

I can't remember when it came up. My mind isn't clear on that but at the time I saw the difference. I just assumed to be--

Q Captain--

MR. SMITH: Let him finish the answer.

A There was a discrepancy and I didn't measure it on here and if there is a discrepancy it shows here that the work, on the chart it shows that the work is in progress and they could be doing anything to that breakwater

and as I said before, all I have to assume is that the chart is correct and it shows plenty of deep water off that underwater extension.

Q But on June 21st, you testified that if you had thought of the 400 yards at the time you were maneuvering you would not have gone that close, is that not correct?

MR. SMITH: Objection, your Honor. That wasn't the testimony.

THE COURT: Yes, and beyond that, may I suggest to you, Mr. Schulmeisters, you have made your point. Let's not beat it to death.

Are you still working for Ogden Marine?

A Yes, sir.

THE COURT: What vessel do you have now, sir?

A Mohawk. They put me on the Mohawk. My vacation was up and they needed somebody in a hurry and they pushed me on the Mohawk and I have been there six months and now I am on vacation. She was a C-4, an ex-trooper, and now she is a general cargo ship, hauling ammunition.

THE COURT: Anything else on cross?

MR. SCHULMEISTERS: Yes.

Q Now, Captain, would you please look at Exhibit K, the bell book, the date for February 26th.

At what speed was your vessel going at 1537 hours?

A 1537, she was probably doing 11.8.

Q At what speed was she going at 1541 hours?

A 1541, she was on slow ahead now. She drops off fast and probably about three knots, maybe three, three and a half, three.

I previously testified that I look over the side to see the water going by to judge my speed.

Q I refer you to Exhibit QQ-2 and page 25.

Did you ever testify as follows on page 25, questions by Mr. Smith?

"Question: Twelve knots and what was it at 1541 when you went half ahead, approximately?

Answer: Half ahead, I would give her 60. We were at about eight or nine. But that is without using a pencil to figure it."

Then a little further down.

"Question: Captain, at 1541, I'll ask you again, when the engine was put on slow ahead, what was the speed of the vessel through the water?

Answer: Slow. That is about six."

Were those questions asked and did you give those answers?

A That was--it's here.

Q Would you please turn to page 90 and 91, line 23 on

page 90:

"Question: At 1541 hours, when you gave a slow ahead bell.

Answer: What did I give him?

Question: Your speed was 8.9 knots, is that correct?

Answer: Eight or nine knots. That's what I gave him. I didn't use a pencil and paper. I was just estimating it."

Were those questions asked and did you give those answers?

A Yes.

Q Now, Captain, --

MR. SMITH: Your Honor, I must object to the reading because it's not correct and it's not complete. He started in the middle of a series of questions which do not refer to the actual bell signal that was given at the time but various bell signals that are given on the ship.

THE COURT: Well, again, I am at a loss because I don't have available to me this documentation from which he is reading.

MR. SCHULMEISTERS: Your Honor, I should give you the original, maybe--

And you reduced the estimate to 4 to 6 knots, right?

A That's what is in the testimony.

Q So your first estimate was 6 knots and then Mr. Smith asked you the same question again and then you reduced it from 4 to 6.

THE COURT: I got it; let's not kill it, please, Mr. Schulmeisters. This is ridiculous.

Q Captain, what are the engine revolutions for slow ahead on the Potomac or what were they on February 26, 1972?

A Forty.

Q Forty revolutions?

A Roughly.

Q And what was the pitch of the propeller?

A Oh, seventeen and a half feet. Didn't I give that before, in the previous testimony?

Q Yes, you have given that before.

Now, at 40 revolutions and a pitch of 17 and a half feet what would be the theoretical speed on a slow ahead bell?

A Can you give me a piece of scrap paper?

Q Yes. Certainly.

A Will you also give me a figure of what slip

you want?

Q Yes, I will. First, we have the theoretical.

A We went through this before in the previous testimony.

Q Yes. If you want to use my figures, I can give them to you.

A I will use your figures. What do you want here?

Q 40 times.

A 40 revolutions?

Q Right.

A 40 revolutions.

Q Times 16 and a half times 60 over 6080, right?

A The fast way of doing it, just take one and three-quarters time the revolutions. 7, without any slip, 7 knots.

Q I get 6.9.

And with a slip of 14 percent.

A You want to use 14, divide by 7, that is 1 off, that would be 6, the slip, without any current. I hadn't brought that out before. In fact, I want to finish the last answer. That was without any current and the tide at that time was ebbing. The tide was running out.

Q How fast?

A I am not sure. We would have to look it up.

Q Would you please look at Exhibit K, the deck bell book. At 1541, it's a slow ahead bell, correct? The one we have been talking about?

A Yes.

Q Between that 1541 bell and the 1549 time, are there any other engine movements in your deck bell book?

A 1541 and 1549, there is no other bells in the bell book.

Q That's in the deck bell book?

A Is there anything in the engine bell book? We brought out before the deck is incomplete.

Q That's Exhibit M now, right? According to the engine bell book, you have a bell in between there?

A 1537 we have--

Q A stop, the 1548.

A Yes, stop. 42 is half and 48 stop.

Q The engine bell book for the slow ahead, isn't that a slow ahead, instead of a half, 48?

A 48, in the engine book is stop.

Q I am sorry--the 1542?

A 1542 in the engine is half ahead.

Q Half ahead or slow ahead?

A Slow ahead. Pardon me.

Q That would be the same bell that follows the

1541 slow ahead bell in the deck log?

A Yes.

Q Would you agree with that?

A Yes.

Q And then the vessel continued on that slow ahead speed of about six knots?

A No, we can't--

Q Six knots discounting current, until 1548, according to the engine bell book, isn't that correct?

A The vessel, once you start revolutions, 20 revolutions, it's going to take time for it to build up to any speed on that 20 revolutions. We are not, at the time that you put it, it's not like an automobile, where you have a speedometer which says you are doing 20 when you are actually doing 20.

Q The same thing is as far as slowing down, is it not?

A That ship falls off fast.

Q What I am suggesting to you, Captain, is that between the six knot speedthat you estimated in answer to Mr. Smith's questions, at 1541 hours, and the stranding time, the vessel really had forward motion again or power for forward motion of approximately five to six knots?

A That was to make, to get enough way on it so

we could steer.

Q So, therefore, she could not have been slowed down to about two or three knots at the time of stranding.

A I previously estimated from everything that I could recall that she was doing about three knots and that's from looking over the side at the water passing by, which is customary, and that was my estimate, about three knots, when we stranded.

MR. SCHULMEISTERS: I refer you to Defendant's Exhibit L, previously marked.

Would you mark that, please, as Defendant's Exhibit L for identification?

(Defendant's Exhibit L marked for identification.)

Q Do you recognize that book, Exhibit L, Captain?

A It's an engine log book.

Q Would you turn to the page for February 26th, the day you arrived at Casablanca, and I note in there two small slips of paper. What are they? Do you know?

A Noon position report.

Q What's the other one?

A Same. Engineer's noon report.

Q Does that also include the slip that the vessel

had on that particular day?

A Based upon whatever their count was for the revolutions and if they have anything left over from a round figure the day before they carry it forward so that they will end the voyage with the speed of whatever it is.

Q What do they have over here?

A Slip there, they had, what is that? 70 or 10? 10.

Q Ten, right.

What was it the previous day, Captain?

A 11-75.

Q I show you the deck log book for February 26, 1972 and I turn it to the green pages. And we are talking about Exhibit E.

Does that log book contain a grounding position?

A Grounding position?

Q Or anything concerning the grounding.

A Yes, it has an entry concerning the grounding, 1549, a ground forward-bow raised 400 yards from jetee by radar.

Q Captain, do you know, when was that entry made?

A 1549 a ground was made before 1600. And the

second mate wrote up, I told him just to get in, get what happened here. We went aground and then we were afloat. We put in the important stuff after we got--

Q I am talking now about the words forward-bow raised 400 yards from jetee by radar. When was that entry made?

A Well, it was put in after the grounding and how soon after--it could have been put in after midnight or early the next morning. We brought that out in previous testimony.

Q Captain, I show you something that appears to be marked Defendant's Exhibit U.

MR. SCHULMEISTERS: Would you please mark this as Defendant's Exhibit U for identification?

(Defendant's Exhibit U marked for identification.)

Q Do you recognize what this is a photograph of?

A Yes. You had this at a previous--

Q Tell the Court what it is.

A Photograph of the deck log on Saturday the 26th.

Q Now, Exhibit U, does that contain the entry for 2400 hours?

A Yes. The bottom line is filled in.

Q So that would show as the log book looked

at the end of the day on February 26th?

A Yes.

THE COURT: Incidentally, what time did the log show the grounding occurred?

THE WITNESS: Aground at 1549.

Q Did you once previously testify, prior to seeing that photograph of the log entry, forward-bow raised 400 yards from jetee by radar, was entered on the same day?

A Well, all log entries are made after the fact. When they are made is--it's up to the man on watch and in this case, this was a n emergency, very unusual and we put in the pertinent facts and here it's very obvious that this 1549 aground and the part filowing is put in after his original entry because he has erased the initials and the printing is even a different slant and it's smaller and he signed it again after adding to it.

Q Captain, would you please look at 40, Page 40 of the testimony which is QQ-1?

MR. SCHULMEISTERS: Maybe in this case I should have the Court follow that, if you wish, your Honor.

THE COURT: I am following it. I haven't read it.

Well, I don't know. Again, what are we doing?

Are we reading?

MR. SCHULMEISTERS: Yes. I was going to read him some questions and answers and then ask something.

THE COURT: Fine, but the main point is to get Mr. Smith cued in here so that he doesn't lose track and I want the witness to follow it, too.

Q On page 40, line 3, this is my examination and Captain, these questions and answers were asked of you prior to your seeing Exhibit U, is that correct?

A Pardon? I was reading it.

Q The following questions were asked of you before you saw Exhibit U, the photograph?

A What was this? This is from December?

Q No. This is from--

A The book is December--

Q No. This is June 21st.

"Question: Captain, is it not a fact that this entry, 'Forward-bow raised 400 yards from jetee by radar,' was made by Hunziker pursuant to your instructions several days after the stranding?

Answer: No.

MR. SMITH: How many days after the stranding exactly? What were the instructions?

MR. SCHULMEISTERS: I am asking the Captain a

question. Please answer.

Answer: No, sir.

Question: You say it was written the same day.

Answer: It may have been written the same day. I might have had to nudge him because he was very excitable and nervous and I may have had to tell him to write up the log if he hasn't written it up.

Question: Is it your testimony this was on the day of the stranding, Captain?

Answer: Yes."

Were you asked that question and did you give that answer?

A Yes, it's here.

Q Were you undereath at that time?

A Yes, I think my--

Q Now, Captain,by looking at Exhibit U, that could not have been a true answer, could it?

MR. SMITH: Objection.

THE COURT: A direct answer, if that's it. I'll allow it.

In other words, what he is asking, very simply, Captain, is, now that you have had a chance to look at this photograph of the log page which we call Defendant's U for identification, would that in any way change

your answer that you gave at this pre-trial deposition?

A It would change it in this--that the same day meant that day and including the night. He could have made this right after midnight which to me, roughly, when I said day, I didn't mean technically to end the day at midnight. It could have been the day from one morning to the next morning.

THE COURT: Anything else, Mr. Schulmeisters?

MR. SCHULMEISTERS: Yes, your Honor, there is.

THE COURT: Well, we have been going a very long time and I would suggest that you try and condense this. It's not very profitable, really.

MR. SCHULMEISTERS: Just one more point.

Q The additional log entry was made within 24 hours, is that your testimony?

A It was--

Q You said it was made the next day.

A I assumed it was made during that next night, sometime that night. Obviously he put it in after the 2400 entry was put in at midnight or near midnight and Mr. Hunziker, the 12 to 4 man came on a few minutes before midnight.

Q That is what you testified later on on that day when you saw the photograph, right?

this but if we are just going on and on.

Do you want to step down, Captain, stretch your legs and relax?

(Witness excused.)

THE COURT: Mr. Smith, I indicated before but I want to indicate again that I am at a loss to understand what any expert for either side would be needed for here and I want to save time and money, if I can, even though I realize that neither side in this case is particularly interested in saving either.

What is it that an expert would testify to for the plaintiff?

MR. SMITH: Your Honor, the contention here on the part of the government is that a mariner should not pass between that buoy and the breakwater.

THE COURT: So the government contends.

MR. SMITH: And the only way that we can prove that the conduct of Captain Hansen was correct was by measuring it against other people similarly situated, other prudent mariners.

THE COURT: In other words, are you going to have somebody come in here and in effect take the place of the Court and make these decisions? I don't quite understand it.

MR. SMITH: I think the Court has to have the evidence in order to make the decision.

THE COURT: I know. It seems to me the evidence is ample but this case has already been overtried to the hilt and I am trying to save some time and money for both of you, even though you are not eager.

Your expert will say that it's perfectly all right to go here and the government will produce an expert to say that it was perfectly ridiculous that he goes there, so we are right back where we started, in other words. The Judge is going to have to decide and that's that. Why do I need an expert to say those two conclusory things?

MR. SMITH: I think it's a question of whether the Court believes these experts or not.

THE COURT: I must say that you have every reason, a good deal of practical basis, because American lawyers and Judges go on ad infinitem with these experts and our system is so loose and so unimaginative and worse than unimaginative, it's really cutsathwart what any kind of reasonable decision-making can be in these non-jury cases. I just don't understand it.

Well, I suppose the honest answer is, if I

didn't let you do it, I would be told later on appeal that this was wrong, even though it's about as absurd a conclusion as I can think of as a practical matter but what I regard as practical is often not in keeping with the views of what is permissible under the law in this country and I am aware of that. If you want to put somebody on--

MR. SMITH: Well, your Honor--

THE COURT: I hate to have the poor man sit here, frankly, particularly with Mr. Schulmeisters' habits on cross examination, which are extremely lengthy and picky.

MR. SMITH: My direct examination shouldn't last but about 15 or 20 minutes.

THE COURT: I am not worried so much about that. He told us that he expects to go on ad infinitem, in a comparative sense, with Mr. Hansen and it's more time wasted for your expert, which I hate to see. He is a busy man, I assume.

MR. SMITH: I arranged for him to be here all day, your Honor.

THE COURT: I appreciate that but unless I sit until midnight, which I am not prepared to do, I don't think we are going to get very far.

Now, look, Mr. Schulmeisters, I don't know what you think you are doing but you do not have any sensible

expectation of proving much if you go on the way you are going with little ticky-tacky details on cross. There is no need to continue as both of you do in overtrying this case.

Now, discrepancies are human, they are not necessarily indicative of skullduggery or worse. And every little nuance that you want to pick up is only in my opinion making your role here a little bit more precarious. Now, you condense this. We don't have to go into every little change in verbage that a witness like Captain Hansen has made here. I get the point. I got it long ago.

Now, you think about it over the luncheon. We are going to try this case until 1974 unless you pull this thing within some reasonable grounds of proportions and I just think--

MR. SCHULMEISTERS: I will try to shorten it up during lunch, your Honor.

THE COURT: I think you should think of this. Every little detail is not necessarily going to make a good case, you know. Think about what I am saying. I don't mean to be critical. I know only too well how extensive your pre-trial and your trial preparations have been and I salute you both for that but that doesn't mean you have to bring out every detail you got into

on pre-trial at trial.

We'll resume at 2:15.

(Luncheon recess.)

* * *

AFTERNOON SESSION

2:15 P.M.

(In open court.)

CROSS EXAMINATION

BY MR. SCHULMEISTERS (CONTINUED):

Q Captain, I believe we left off with the pilot chart, 103.

Did you have a copy of it on board on February 26, 1972?

A I don't recall having it. I doubt that we had it.

Q Could you have had it on board?

A I doubt it very much, it's an old chart.

Q Do you recall my asking you this question and you giving the following answer, and I am referring to page 30 of Exhibit QQ-1, and the second word his, I think shaid be this:

"Question: On line 11 question. Would this set of such pilot charts have been on board the Potomac in February of 1972?"

"Answer: I believe there is one on there. It had been on there. We often give them to the crew and they plot the ship's course during the voyage.

Question: Would not a pilot chart containing buoy systems of various countries be kept together with other navigation information?

Answer: Yes."

Did you give those answers to those questions?

A At that time, yes.

Q So at that time, which was in June, on June 21st of this year, you thought the pilot chart was on board.

A As I said, we only keep--

Q Please answer my question.

A All right. I made the statement, the testimony shows it.

Q That was the truth, wasn't it?

What was the answer?

A Let's go back to the question.

Q The question was, was that the truth? And what's the answer?

A At that time, yes.

Q Now, Captain, when you were proceeding towards Casablanca, were you in a hurry to make a tide?

A Well, the ship has one speed and we are making that one speed. We are not making extra revolutions or

pushing it or forcing it. We had been making tides, where it's necessary to make tides in tidal ports, ever since I have been going to sea. We are not going to stop or slow down along the way.

Q Now I refer you to Exhibit L for identification, the engine log. And to the date of February 24th. Does that show the various revolutions per minute for that watch for the various watches for that day? Excuse me.

A Yes.

Q What are they, sir?

A 87/9, 87/8, 88/5, 87/6, 88, 87/6.

Q What are the ones for the 25th?

A 87/7, 87/5, 89/7, 89/8, 90/4, 88/7.

Q And on the 26th, prior to stranding?

A 90/1, 89/9, 90/2, 90/9, 90/3, 90/3.

Q Does that show an increase towards the end of the voyage there?

A I wouldn't know the reason for it. It's a slight increase. Maybe they changed nozzels, changed tips.

Q Did you--

A I don't recall. Does it show in here what they did?

Q Did you receive any telegrams asking you to

make your best effort to make a 1300 arrival?

A Yes.

Q And did you reply by telegram that you were making your best efforts to arrive at 1300?

A Yes. Well, the ship runs her best efforts all the time. I made the reply then. It's in the evidence.

Q At what time was high tide on the 26th of February?

A I don't recall. Is it in the evidence? The testimony, I mean.

Q If I suggest to you 1244 would that be approximately correct?

A If that's it.

Q I show you Defendant's Exhibit R in evidence. I believe previously at your deposition testimony you identified that as a chart from the Potomac?

A Yes.

Q That the chart that shows an approach, let me rephrase that.

Is that a chart that shows three buoys in line just outside of Casablanca?

A Yes.

Q Does it also show a range to the east

and south of buoy CA-5?

A Lights and line, yes.

Q Did you do any navigating on that chart, Captain?

A No. I didn't make any marks. I used it for navigation. It was out there. I had it on--I had three or four charts, I think, stacked up. This is one of them.

Q But you did not do any navigating on this chart?

A Yes. I used visible navigation. I used the chart. I didn't make marks on it. It wasn't necessary.

Q This one mark that was put on here on the upper left-hand side with the letter "S" and a cross, do you know when that mark was put on there?

A I don't recall. It could have been noon, transferred over from the previous chart.

Q Would you recall whether you transferred that during Mr. Smith's examination?

A I don't recall. I don't recall. The previous testimony would show, wouldn't it?

MR. SCHULMEISTER: So we do not waste time, would you stipulate that you asked him to put that new position on that chart?

MR. SMITH: If that's what it shows, I'll take your word for it.

Q Other than that mark, during your navigation and approach to Casablanca, no other marks were made?

A No.

MR. SMITH: Let's have the record clear that he didn't make that at the time he was on the ship. He made it at the time of the deposition.

MR. SCHULMEISTERS: Oh yes, certainly.

Q Captain, the only chart other than Exhibit D, 3777 that has close positions of your navigation is Exhibit Q for identification, is that correct?

MR. SMITH: Objection, your Honor. I wanted to put a chart in evidence this morning and the word close disturbs me because--

THE COURT: Well, I don't think I would be disturbed but let's see if we can get at it this way--

This is a chart which is not evidence?

MR. SCHULMEISTERS: It's Q for identification, your Honor.

THE COURT: As Mr. Smith suggests, I wasn't too interested in getting any more charts in evidence. We have got so many now that it's discouraging. What's

the point of all this?

MR. SCHULMEISTERS: I just wanted to suggest, to bring out, your Honor, that the--

THE COURT: You know, you turn your back and none of us can really understand you.

What is it you said?

MR. SCHULMEISTERS: That any navigational marks approaching Casablanca as on this ocean depth curve chart about 50 miles away which does not show any of the buoys or ranges.

THE COURT: Well, why don't you ask him so you can get at it?

Q Is the noon position of February 26th on Exhibit Q for identification?

A Yes.

Q Does that chart show the three buoys, CA-1, CA-3 and CA-5?

A No.

Q Does that show the range that is on the other two charts, the harbor chart, Exhibit R?

A It doesn't show what is on 51222.

Q And also does not show what is on 51220, either, does it?

A No, that's right, no.

Q You know it does not?

A Yes.

Q This chart Q for identification covers about one-quarter of the earlier portions of the Atlantic Ocean, right? Approximately?

A It's your statement. I don't know whether it does or not.

Q It does include the whole of Morocco, the whole of Portugal?

A Portugal to Morocco.

Q And Spain, right?

A Yes.

Q So it covers a very large area, does it not?

A Yes.

Q It does not show any details of approach to a harbor, does it?

A No.

THE COURT: Well, let's see if I get the significance of this.

Were you using this chart to plot any information on or plot any courses contemporaneously on the day of February 26, 1972?

A We put our noon position on it which we took off of a ploting sheet which is just a blank showing the

latitude and longitude and it was transferred over. We didn't do any--we just transferred positions over to it. Put a rough course line through it. It also shows the noon 25th out here. Our navigation is done on ploting sheets and we did very little on this one. Paper, pencil work on this one, no pencil work on the next chart going in and most of ours, because we were in radar range on the other chart that you mentioned, that one.

Q That Exhibit R?

A Exhibit R. Now we get close and those have not much meaning until we get close. We make our visual inspections of that chart (indicating) and R and we are getting in close for the approach, making the actual approach, we are using 51222.

Q Now, Exhibit R, does that not indicate to you a line of approach to the harbor of Casablanca?

A It shows a line of approach if the ship is entering from the north. This range going through--this one doesn't show the range.

Q It does here.

A Pardon me. I was in the wrong place.

Okay, this range, for ships approaching coastwise from the east, northeast, range of buoys, ships approaching from the north and/or ships approaching

Q Captain, would not prudent navigation require you to examine the areas what the red sectors show and how far that they can also be seen further than just a line extended on the chart?

A I believe I did what was prudent. I examined the chart and the red sectors enclosed an area that was inside the harbor, close to the beach.

Q Is it your testimony that past the last dot on the dotted line, you do not worry about it any more?

A This was at night time for that red sector. The red sector is for night time navigation. I was there in the daytime and the red sector encloses for the inner harbor.

Q In night time would show danger to you, would it not, even north of the breakwater?

A If that dotted line had extended out to the breakwater a s it does on the French chart, then I would have taken notice of it and thought that it meant something. But the American chart does not show the extended line out to the breakwater.

Q Is it your testimony that because the red line does not extend out that therefore it does not refer to any danger past the last dot on the dotted line?

A In this case, it just--I'll stick to my

testimony.

Q Would you please answer my question?

THE COURT: Hasn't he already answered that?

Q Let me ask you something else. On American charts, is it not true that red sectors are just indicated for a short distance to show what the sector shows and usually are not extended all the way out?

A Well, they would extend out to where the danger is. If the red light is there for a certain danger, the dotted line should extend out to where the danger is.

Q Let me show you the British Admiralty chart of the area, Exhibit KK. Do you see those dotted lines extending all the way across the harbor?

A No.

Q But you do see a sector semi-circle showing on which side it's white light and which side it's red light?

A Right. Now, in answer to that question, extend out here, extended out here, the danger extends out, these dotted lines should extend out to where the danger exists and in my case on approaching this buoy, black buoy, which is in the center of this fairway marked prohibited anchorage, the reason it is marked prohibited anchorage is because ships are using

it passing back and forth on both sides of this black buoy. That is a fairway marked by this black buoy, so why would any line come out into the fairway where ships traffic are and so my assumption was that these red sectors are for areas, danger areas within the harbor limit.

Q That was your assumption?

A My assumption at the time, yes. This is a fair way out here. There shouldn't be any danger in a fairway or they would never mark it a fairway.

Q But you also do have written work in progress on the chart, do you not?

A The wor k in progress is there. It ends with the dotted, dashed line according to the meaning of these dashed lines.

Q And the sailing directions says that the whistle buoy is close off of the underwater construction, does it not?

A But this is 1952 or 1970 and the chart is 1972.

THE COURT: All right. I think we have had enough of that.

Q One thing more about the chart.

THE COURT: You are just arguing with him now.

phrased it.

If I can answer it in this way--

THE COURT: If you don't understand it, you don't have to answer it.

THE WITNESS: All right, sir.

Q Now, Captain, when your ship was on the strand, the pilot did come up on board the ship, did he not?

A Yes.

Q Subsequently, after you came off the strand, the vessel at first anchored inside?

A Yes.

Q Thereafter, the vessel anchored outside in the prohibited anchorage zone for some time on the 26th of February, did it not?

A Beyond, north of the prohibited anchorage zone.

THE COURT: How long did it take to get her off strand?

THE WITNESS: An hour and 20 minutes or an hour and 40 minutes, I believe. That's as I recall it.

THE COURT: You got her off on her own power?

THE WITNESS: Yes. With the use of a swell, a stern swell.

MR. SCHULMEISTERS: I have something here that

if we re-anchored. I am not clear on that.

THE COURT: Is there any significance to all of this, Mr. Schulmeisters?

MR. SCHULMEISTERS: Yes, in just one second, your Honor.

A 1034 anchor aweigh. 1110 dropped port anchor on following bearings. Breakwater--

THE COURT: What is it you want to know, Mr. Schulmeisters?

The witness keeps talking to himself, the reporter is confused, I am confused and time goes on.

What is it you want to know? Ask him questions.

Q When you were at the anchorage, did the pilot boat come out?

A The pilot left us outside. He didn't leave us at this point. He left us out, someplace out here.

Q He left you when you were on the anchor bearing shown on Exhibit HH?

A I am not sure of when he left or where.

Q Either on HH or on the other one, north of the prohibited anchorage area?

A Yes.

Q And the pilot boat came out and took the pilot

away, is that correct?

A Well, did we have it in the log book what time the pilot left?

Q Yes. Pilot away 1725 on December 27th-- is that correct? February 27th.

A That's what the log shows.

Q After that did another pilot come on board the vessel prior to her coming into the harbor?

A Yes.

Q So the pilot boat did come out way north of buoy CA-5 with a pilot?

A North of CA-5. I am not clear on it now. We didn't bring this up in the previous testimony, did we?

Q No, we didn't but a pilot--

A He came out later.

Q The pilot came out to a ship anchored north of the prohibited anchorage and boarded your vessel?

A How long, how far is that? We could have shifted around out there, heading this way, when we took our bearings heading this way and then when the tide changed, we are out here when they take it again.

Q Captain, look at your log book on February 28th.

A I see it.

Q You have an entry at 1044, pilot aboard, Leberre aboard.

A Right.

Q And then you commence heaving anchor at 1050 on the 28th.

A Right.

Q So is it true that the pilot came on board while you were anchored outside?

A There is no--outside the harbor, yes.

Q And that was at a point north of buoy CA-5?

A Yes.

Q Captain, at that time on February 28th, when pilot Leberre came on board, what was the wind force.

A Not entered.

Q What is it at 8:00?

A South 4, northwest 5. Eight and twelve o'clock.

Q That's when the vessel was on the pilot's orders, right?

A Yes.

Q What is the speed in knots of force 5 wind?

A The force of the wind has no bearing on a loaded ship. We were loaded deep and--do you have the

A Right. Yes. I have said that all along, I erased those lines.

Q I show you Exhibit JJ for identification. It has quite a few marks on here, does it not?

A Yes.

Q These various marks were made during the various depositions, were they not?

A Most of them made at the first deposition, yes.

Q Captain, do you recall that I asked you to measure the distance between the stop position at 1537 and the grounding position at 1549 and then figure out the average speed of your vessel over that distance?

A Yes, I recall.

Q Do you recall what that speed was?

A You figured it. We never did go that--there was only a fraction of a moment that we were going, traveling at that average speed. We were going faster and slower than that average speed.

Q Do you recall that average speed of approximately 8.7 knots?

A Whatever it was you figured out.

Q My recollection is you did the figuring yourself.

A Well, whatever.

Q Would you agree now that is the overall average speed?

A Overall average speed.

MR. SCHULMEISTERS: Your Honor, since I do intend to use parts of the deposition on the government's case, where all these identifying marks are made I don't think we should waste time now and I would like to offer the Exhibit J into evidence now and--

THE COURT: Is that another copy of the French chart?

MR. SCHULMEISTERS: It's another copy of the ship's chart, which was used to--

THE COURT: 51222?

MR. SCHULMEISTERS: That's right.

MR. SMITH: Your Honor, I take it Mr. Schulmeisters is suggesting that he is going to offer Captain Hansen's deposition in evidence with these charts attached to it and I think this is highly improper. The witness is here and the purpose of the deposition to be used for cross examination at the trial--

THE COURT: In any event, let's not get into that. We have got some problems now.

What is your position at the moment with regard to JJ for identification? Do you offer it or

Any redirect, Mr. Smith?

REDIRECT EXAMINATION

BY MR. SMITH:

Q The Court asked if there was anything in Bowditch about buoy systems for foreign countries and I didn't quite understand your answer to it.

I am going to ask you a question now. Think about it before you answer it.

Is there anything in Bowditch that will tell you what the buoyage system is in Morocco?

A No.

Q As you were approaching CA-5, you altered your course to the right.

What was the purpose of that alteration of course to the right?

A The vessel was coming out and I wanted to pass under his stern and that's also why I gave it that last bell, was to pick up the speed, in order to make the turn, make sure I was going to turn and I passed under his stern because he was dead ahead of me in line with the buoy.

Q What would have happened had you not altered your course to starboard?

A If I hadn't altered my course to starboard,

I might have, if I had come left, we could have come together and possible collision out here northeast of the buoy and that was the only answer was to go under his stern.

Q How would you describe that situation in seamen's terms? What kind of a situation was it?

A It was a crossing situation and he had the right of way and--

Q One-tenth of a mile is how many feet?

A One-tenth of a mile is about a ship's length, 600 feet.

Q I refer you to the bell that was given at 1541, which is marked slow ahead; is that correct?

A Yes.

Q For what purpose was that slow ahead bell given?

A The ship was losing steerage. You go too slow, you can't steer. You have to push more water past the rudder so you can make your turns.

It doesn't increase the speed of the vessel immediately.

Q This is the last question, Captain.

Would you mark on Plaintiff's Exhibit 111 with this red pen the fairway which you described on

cross examination?

(Witness marks.)

MR. SMITH: The Captain has now drawn a straight line from a position off the end of the jetee around following the dotted line of the prohibited anchorage area.

No other questions, your Honor.

MR. SCHULMEISTERS: May I ask a few, your Honor?

THE COURT: Sir?

MR. SCHULMEISTERS: May I just ask a few?

THE COURT: Well, I can't cut you off until I hear what you have to say but let's not repeat ourselves.

RECROSS EXAMINATION

BY MR. SCHULMEISTERS:

Q Captain, on this prohibited anchorage area that you just drew on there, would you also please mark on there with reference to Exhibit HH where your ship was anchored by the pilot after the stranding?

A Do you want me to draw the same lines that were there before, originally?

Q Yes.

A You want me to put the original lines in or

just circle them?

Q Put the original lines in there.

A And these dotted lines will show where we anchored on a flood tide while the pilot was aboard as opposed to the anchor bearings that show, that remain on 5122, which is the probable position of the ship after the tide changed.

(Witness marks.)

Q Now, with reference to Bowditch, Captain, by looking at Bowditch can you tell that there are different buoyage systems in different parts of the world?

A Yes.

Q And tell me, what kind of vessel is the Potomac? Does she travel coastwise on a regular route or various routes?

A Foreign.

Q Usually foreign?

A Mostly foreign.

Q Are the voyages usually similar or different or different every time?

A Usually different.

Q She is what, a tramp ship?

A Tramp, yes.

Q So she would be going to various parts of the

world, right?

A Right.

MR. SCHULMEISTERS: I have no other questions except I do reserve the right to put in on the government's case certain portions of his testimony.

THE COURT: We'll worry about that when we get to it. That has nothing to do with the problem at hand.

You have no further questions of this witness. Is that so or not?

Now, don't use that as an excuse to go through those notes of yours again. We stood here doing that for hours. The question is a simple one, any more questions of Mr. Hansen or not?

MR. SCHULMEISTERS: Yes, I do have a few.

Q Captain, when you first testified in December of 1972 and I asked you if you had written anything to the harbor authorities--

THE COURT: That's not recross. That is just things you are thinking about, trying to prolong this. I am not going to allow that.

MR. SCHULMEISTERS: In that case, no further questions at this time.

THE COURT: You better leave, Captain, before somebody changes their mind.

Thank you.

(Witness excused.)

THE COURT: We'll take a five minute recess and then we'll hear this expert, Mr. Smith.

(Recess.)

* * *

(In open court.)

MR. SMITH: I would like to call Captain Wood as my next witness, now, your Honor.

J O H N W O O D , called as a witness by the Plaintiff, having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SMITH:

Q Captain, you are a master mariner. How long have you been going to sea?

A Started in 1934 as a cadet, first.

Q In what country?

A In the Netherlands.

Q Did you hold any Netherlands' licenses?

A Yes.

Q What licenses did you hold?

A The steward, the second and the first license that we had in Holland, it was the third and the second

Plaintiff's Exhibit 103 and its in evidence and I would like you to look at both sides of that chart and examine it very carefully.

A Well, I see what it is.

Q Captain, have you ever seen a chart like this one on the Potomac?

A I have never seen it, no.

THE COURT: Wait a minute. I didn't get the answer. You hold your hand up and I can't hear a word you say.

Have you ever seen that pilot chart or one like it?

THE WITNESS: I have never seen this one or any one like it on the Potomac or any other ship.

Q For how long are pilot charts kept on board vessels that you have sailed on?

A We keep it until we get the next issue.

Q What is the purpose of a pilot chart?

A To assist us in, you know, pulling on the tracks and to give us an i[illegible] of what type of weather to expect along our routes.

Q I have here two radio messages. Would you identify those?

A Yes. I picked them up.

out and when it was received there is no information.

Now, anything else of this witness?

MR. SMITH: Yes, your Honor.

Q Captain, did you read the sailing directions that were on board the Potomac on the voyage to Casablanca? That is Plaintiff's Exhibit H.

A I have read these pertaining to the approach to Casablanca, yes.

Q Did you examine the chart for Casablanca, Defendant's Exhibit D, that was on board the Potomac on the voyage to Casablanca?

A I did, too.

Q Based on your examination of the sailing directions and the chart what was the buoyage system in Casablanca when the Potomac proceeded toward Casablanca on February 26, 1972?

A Referring to the chart--

THE COURT: What did you say, Mr. Schulmeisters?

MR. SCHULMEISTERS: I object, your Honor.

THE COURT: I am going to sustain that.

MR. SMITH: What is the basis of the objection, your Honor, so I can rephrase it.

THE COURT: I can tell you one reason for the ruling. There is no reason in the world that he can

properly give us an answer. He can tell us what he assumes but there is no reason to know that he knows the answer to that particularly since he told us he never has been in Casablanca harbor in his life.

MR. SMITH: I'll rephrase the question, then, to overcome that objection.

Q Based on your examination of the sailing directions and the chart what do you assume that the buoyage system was in Casablanca on February 26, 1972, when the Potomac approached Casablanca?

MR. SCHULMEISTERS: Your Honor, I object. May I just say that this apparently is a hypothetical to a fellow captain of Captain Hansen. This is not an expert.

THE COURT: Well, I am inclined to think you have something there and I am only taking this subject, because there are a lot of problems here but basically it seems to me that we are asking Captain Wood to answer the questions which the Court has got to answer and even in permissive trials, this is not normally allowed. When I say permissive American Admiralty Courts, we are by far and away more permissive than the British or the Continental Admiralty Courts. But this to me seems ridiculous.

MR. SMITH: I don't know how, your Honor, with all respect to the Court, how the Court can make a judgment,

unless it knows what the--

THE COURT: But you are asking a man who's never been to the port to tell us standards which are non-existent in his mind. First of all, Captain Wood, wouldn't you agree there is nothing on the chart and there is nothing in the sailing directions which describes the buoyage in Casablanca harbor, right?

THE WITNESS: Well, by just looking at the buoy, at this particular buoy on this chart, it only gives one buoy outside the jetee, which is a black buoy. By referring to the Bowditch, I am pretty sure to take it as a black buoy, the only chart outside the jetee, right. And by referring to the Bowditch, the Bowditch which describe the buoy as a buoy that I should keep on my port hand and that is in the Bowditch.

THE COURT: All right. I am going to sustain the objection of the United States. This is absurd. In other words, what you are telling us is you are assuming that this being a black buoy was a black buoy under the so-called American system, correct?

THE WITNESS: It is a black buoy on the chart, on this American chart, your Honor.

THE COURT: And therefore you were assuming that this was the American buoyage system.

THE WITNESS: I don't think I am assuming. I am referring to the Bowditch, which is--

THE COURT: Captain, I don't want to get into an argument with you, but Bowditch has in it reference to other systems. They refer to the International Conventions of 1889 and 1936, correct?

THE WITNESS: Yes.

THE COURT: And they refer specifically to the American system and they refer to other systems.

THE WITNESS: Other systems.

THE COURT: Correct. So that what it comes down, I ask you one last time--you are assuming that the black buoy plus the American chart meant that in Casablanca they followed the American buoyage system, correct?

THE WITNESS: Not exactly that. That is not my idea of it. When I see a black buoy on an American chart and I see the explanation of the black buoy in the Bowditch on an American chart, then I take it for granted that I take the black buoy on my port side.

THE COURT: You are saying exactly what I said perhaps in a different way.

In any event, I am going to sustain the objection.

Mr. Smith, another simplistic way of putting

this is, this is exactly what the Captain Hansen told us that he assumed and to have a fellow Captain who also works for the Ogden Marine people to come in and tell us in my opinion is not worth bothering this Court with, so I refuse to accept such testimony. Exception to you.

MR. SMITH: On that basis, your Honor, I have no further questions of this witness.

THE COURT: All right, thank you, Captain.

Don't think that my ruling is intended to criticize you; that's not the point at all.

You don't want to ask any cross examination, I take it?

MR. SCHULMEISTERS: No, your Honor.

(Witness excused.)

THE COURT: Now, I will explain to you, Mr. Joseph Smith, so you feel a little better about this, the point that you want to argue on this subject is already in the record because Captain Hansen was allowed to go into this. Do you remember that?

MR. SMITH: I understand that.

THE COURT: So, there is no need for repetition in any event and second and far more important, this Court does not need the help of any expert to make ultimate findings and conclusions which only the Court can

make particularly when the subject matter has been extensively presented by both sides and as I have been trying to tell you and Mr. Schulmeisters, it's really been overly presented already and we are not done yet.

So I see no reason under the rules of evidence or under common sense to press the point even from your own viewpoint.

You can still make the same argument that you attempted to make through this last witness. I understand that. Hansen has already put it in the record and you can so argue, if you want to.

Now, I want to turn to something else but before I do it, do I understand the plaintiff now rests?

MR. SMITH : I have one more deposition to put in, your Honor.

THE COURT: Let's hear it.

MR. SMITH: It's the deposition of Calvin Charles Hunziker, the third mate.

THE COURT: You want to put it in in its entirety?

MR. SMITH: Yes.

THE COURT: He was the watch officer on the bridge?

MR. SMITH: Yes, and this deposition was taken

by the government.

THE COURT: Any objection, Mr. Schulmeisters?

MR. SCHULMEISTERS: No. Except I would also like to put in some of the exhibits on that deposition.

THE COURT: Maybe Mr. Smith is going to do that. Why don't you wait?

MR. SMITH: None of the exhibits are relative to my case, your Honor.

(Plaintiff's Exhibit 115 received in evidence.)

THE COURT: The Plaintiff rests?

MR. SMITH: Yes.

THE COURT: If you want to put in any exhibits that you wish to put in from the deposition, you may do so on your case.

MR. SCHULMEISTERS: May I do so now?

THE COURT: No, please. Patience, will you? You claim you have an expert?

MR. SCHULMEISTERS: Yes, but unfortunately, the man became ill Saturday.

THE COURT: Well, let me warn you, it may be a sauce for the goose and sauce for the gander situation. What I ruled in respect to Captain Wood I am afraid I am going to have to rule in respect to any expert of yours. I am not interested in having somebody come in here and

tell this Court exactly how the Court should decide the case.

MR. SCHULMEISTERS: No, your Honor. His testimony will be more than that. He is a man who has been to Casablanca quite often.

THE COURT: Assuming he has, I still don't want to hear from him about material which is already in the record, number one, and, number two, his own opinions as to how this Court ought to decide the case. That is not what we are here for. The Court, in other words, this is not a situation where the Court needs an expert in order to understand the subject matter; that's not true at all.

MR. SCHULMEISTERS: All right.

THE COURT: The witnesses who have already appeared either by virtue of live testimony or depositions have raised enough for that. We have texts, we have the sailing directions, the charts. I might say we have the latter in spades but we certainly have them, and I am warning you, if Mr. Smith objects to any portion on this basis and he is right, I am going to sustain him just as I sustained you and I want to tell you now so you don't waste money and time. See?

MR. SCHULMEISTERS: His testimony will not take very long and I would like to have the Court hear him when

he is well.

THE COURT: I don't care, if it's relevant and admissible. I really don't care that much now how long he is but what I am trying to say is, if we have another episode like this and Mr. Smith objects, I am going to sustain it. You see?

MR. SCHULMEISTERS: Well, I would like to mention that you did not rule that way in connection with his other expert. That was not a fellow master.

THE COURT: Who is that?

MR. SCHULMEISTERS: Captain Wadleigh.

THE COURT: You may be right but my recollection is--you didn't move on him, you didn't object, and I can see that he was more helpful to you in many ways than he was to the plaintiff.

MR. SCHULMEISTERS: But Captain Wood is a fellow Captain.

THE COURT: You made that point but that's something else. I say, you never objected to Wadleigh's testimony and I assumed at the time that you were probably well advised quite frankly because it seemed to me he was very helpful to the government's side of the case.

Now, if you want to move to strike this, you

can do it.

MR. SCHULMEISTERS: I don't.

THE COURT: But don't tell me that after the fact, that you really meant to move to keep out Wadleigh's testimony, because that is not what you said on September 25th.

MR. SCHULMEISTERS: No, I have never said t hat, your Honor.

THE COURT: Then don't tell me that two different things are the same because they are not, as you and I have just admitted, in effect.

Now, let me get down to something else. I have just been reviewing thecorrespondence having to do with the interrogatories by letters interrogatory. Now, at the time I uttered that order, I meant what I said and theoretically I recognize that the questions posed as allowed, over objection of the plaintiffs, some of the objections were sustained and some were not, is still theoretically relevant in this case but I ask you, Mr. Schulmeisters, do you really want to wait for these answers now that all of the evidence has come out pretty much in trial?

MR. SCHULMEISTERS: May I wait until I finish my case before I answer? For the time being, I do, yes.

THE COURT: Messrs. Smith and Schulmeisters, are you ready? The burden has shifted, I think, to Mr. Schulmeisters, as I recall.

MR. SMITH: Yes, Your Honor.

THE COURT: What about the witness that was supposedly ill?

MR. SCHULMEISTERS: He's right here, your Honor.

THE COURT: Oh, do you want to proceed with him?

MR. SCHULMEISTERS: Maybe we can do that and then we can deal with the other questions, some other documents and portions of the Captain's --

THE COURT: Documents are the grist for the mills of lawyers and judges. Let's not waste time with that. Let's get the witness.

MR. SCHULMEISTERS: I will call Captain Jungerheld. Will you take the stand.

E D W A R D L E R O Y J U N G E R H E L D, called as a witness for the defense, having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SCHULMEISTERS:

Q Are you presently employed, sir?

A No, I am retired.

Q What was your employment prior to your retirement?

A I was master of the S.S. Export Aide.

Q Do you have any license issued by the Coast Guard?

A Yes, I do, a master's license.

Q How long have you held that license?

A Since February 1946.

Q When did you first start going to sea?

A In 1927.

Q In what capacity?

A Apprentice seaman in the U.S. Navy.

Q When did you receive your first command?

A My first command was in the navy in 1943.

Q On what kind of a ship?

A An L.S.T.

Q When did you receive your first license?

A In February 1946.

Q That's the master's license, right?

A What?

Q That's the master's license?

A Oh, my first license?

Q Yes.

A My first license was 1939.

Q What kind of license was that?

A Third mate.

Q Did you subsequently receive a second mate's license?

A Yes.

Q And first mate's?

A Yes.

Q And then your master's license?

A Yes.

Q In what capacities have you sailed after 1946?

A Master and chief mate.

Q About how many years as master?

A Mostly as master since '46.

Q When did you stop sailing?

A In October last year, October--

Q 1972?

A '72.

Q On your last trip, did you have occasion to go to Casablanca, Morocco?

A Yes, I was on liner service to the Meditteranean, Casablanca, the first part.

Q So in October 1972 your ship did call at Casablanca?

A It did.

Q Had you been there prior to that time?

A I have been going into Casablanca on and off since 1946, since the war ended.

Q Can you estimate approximately how many times you have been in and out of Casablanca?

A I would say maybe 100, maybe more.

Q Did you go there in 1970, '71, '72?

A Yes.

Q Let me show you a chart previously marked Defendant's Exhibit D in evidence. Do you recognize that?

A Yes, I do.

Q Is that a Casablanca harbor chart?

A Yes, it's a Casablanca harbor chart.

Q I am referring now in these last subsequent questions to the year of 1971, '72, that area. Is pilotage compulsory in Casablanca?

A Yes, it is.

Q Can you tell us, please, where do pilots usually board the vessels?

A They board you close by the sea buoy.

Q Which buoy is that?

A The buoy at the end of the breakwater.

Q Is that buoy CA-5?

A That's right.

Q By close by, what do you mean?

A Well, within 100 yards. Although they'll-- if there's a swell running they'll come up a mile to you.

Q You say by coming up, you mean north of CA-5?

A Yes, outside the port altogether.

Q How would you characterize the weather of a smooth sea and a swell of two to six feet for Casablanca?

A That's ideal.

Q Would the pilots come out in such weather?

A Oh, yes.

Q Have you observed how the pilots were seen when they come to meet the ship?

A You can't see them until they clear the end of the breakwater because the breakwater hides them. They come right out to you. Of course, they expect you to have a lee side for the ladder.

Q On the occasions that you have been going in, how does your vessel usually head when the pilot is boarding your vessel?

A Coming in, just about east. Heading in with the swell on the stern. They always have a little swell there.

Q Right. When the pilots come to meet your vessel, how does the pilot boat approach? Does it pass between the buoy CA-5 and the breakwater or not?

A Nothing passes between the buoy and the breakwater, not even the fishing boats.

Q Let me show you Plaintiff's Exhibit 2 and please disregard all the markings on the chart except for one marking. You see here the markings stop?

A Yes.

Q Assume that the vessel is at this point, this marking stop. Would you please, with a black pen, mark on this exhibit how you think a vessel should approach to enter Casablanca harbor?

THE COURT: Which chart are we working with now?

MR. SCHULMEISTERS: Which is a copy of the ship's chart, Exhibit 2.

A This is the same chart.

Q That's right, the same chart. I think it's a photocopy.

A Yes.

Q Disregard all these red and blue markings.

A All right. Mark right on the chart?

Q Yes.

A Yes. (Indicating.)

Q You have drawn one line and you have stopped.

A Yes.

Q Well--

A Actually I'm going dead slow up in here.

Q By "Up in here" there's a marking over there, right?

A Yes, on the approach I am going dead slow, because you can't see stuff coming out of here and you don't want to get mixed up in traffic. Usually you have ships anchored in here, too.

Q Let me just interrupt you and get this on the record. Will you mark this here where you mention dead slow? Just write "Dead Slow" in the area that you pointed to.

MR. SCHULMEISTER: Let the record show that the Captain has marked in black pen the words, "Dead Slow," at the northerly end of the black line that he just drew.

Q Why did you stop the line that you drew on the easterly end of it?

A Because that's where I'm going to get the pilot.

Q Would you please circle that area where you will get the pilot that you just pointed to?

A (Indicating.)

Q Would you please--oh, you already have marked

"Pilot." I see.

From then on how would the pilot bring the vessel in?

A He would board me here. I'd keep the ship heading on a fairly easterly course to keep the ship from rolling with the swell coming in.

Q That's--

Q And he would board me. He'd come around this--make a wide sweep here around the buoy, and then right down here.

Q Would you please indicate on the chart the wide sweep that you just mentioned?

A (Indicating.)

Q Just for the sake of the record, would you please label that line that you first drew showing how you would approach from the position where you stated you would be on dead slow and label that with the letter C please?

MR. SMITH: I'm having difficulty hearing, Mr. Schulmeisters. He's talking into the witness box and it's not coming across.

MR. SCHULMEISTERS: For the benefit of Mr. Smith, I asked him to label the first line C.

MR. SMITH: Thank you.

Q Now, the sweep, would you label that D, please?

A B for baker?

Q No, D as in David.

A David.

Q We have A and B on this chart already.

Captain, would you ever navigate your vessel to pass between the breakwater and buoy CA-5?

A That would be very imprudent seamanship.

Q Why do you say that?

A Because that buoy is there for a purpose. It indicates, and sailing directions tells you, there's underwater--they're extending the breakwater.

Q Thank you. One more question, Captain.

What size vessels have you been Captain of?

A Well, the last one was about 15,000 dead weight, Export Aide, a fairly large ship.

Q That 15,000 dead weight, what does that mean?

A That's total--that's what she totals out at.

Q Approximately how long?

A 493. 493 feet.

MR. SCHULMEISTERS: No further questions.

THE COURT: Would you gentlemen permit a brief recess at this point so I can hear this application? And then we will resume in about five monutes or so.

Q Did there come a time sometime after 1946 when the sailing directions took note of the buoy being put out off the end of the Jetee Delure?

A Yes.

Q Would you look at this first volume, which is the original volume of publication number 134, which was renumbered 51 as one of the changes later on. Would you look at that and refresh your recollection to see whether you have ever seen that before?

Speaking specifically now with respect to the buoy on page 219.

A Yes.

Q Isn't there a specific warning in the first volume of the Hydrographic Office publication?

A Yes, there is, very specific.

Q What is that warning?

MR. SCHULMEISTER: I object and move to strike that for the simple reason 1952 has nothing to do with 1972, February, and '71 sailing directions.

THE COURT: I would agree, but it's so confusing here. We are all talking at once.

This document, this book, the sailing directions, is in evidence already. What's the number of it?

MR. SMITH: Your Honor, it's not in evidence.

Go ahead.

Q What is that warning, Captain?

A "It is dangerous to pass between the new extension and the buoy." That's the warning right there on one sentence.

Q Do you know if that warning is still in the Hydrographic Office Publication, H.O. 51?

A I'm not--I'm not sure.

Q But you know from your personal knowledge going in there that it is dangerous to pass between the buoy and the end of the Jetee Delure; is that correct?

A Yes, I do.

MR. SCHULMEISTERS: Your Honor, I renew my motion to strike it as the year 1952.

THE COURT: I must say I'm puzzled, even looking at it from your point of view, Mr. Smith. I don't see the significance.

MR. SMITH: Your Honor, there is a very definite warning in here to mariners not to pass between the buoy off the Jetee Delure--

THE COURT: CA-5 and the end of the breakwater, right?

MR. SMITH: That warning was taken out of the book somewhere along the way with one of the changes. It

no longer appears in RO-51.

THE COURT: So you want to show that. To that extent, then, I will allow it to come in. Why don't you just admit that portion of the book, the sailing directions, the 1952 edition, which is, as we now know, 112 for identification.

MR. SMITH: I would like to do that, your Honor.

THE COURT: On the basis of which you argue, I will consider it, and it will be admitted for that purpose.

MR. SCHULMEISTERS: Your Honor, may I just state something.

THE COURT: Of course you may state something.

MR. SCHULMEISTERS: We don't have anything in between or any reasons for the difference, nor the progress of the jetee in evidence, and this, I submit, is therefore irrelevant.

THE COURT: Mr. Schulmeisters, you may be right but all I'm passing on is the admissibility, which is a low threshold item. That doesn't mean the defendant wins its case. All that means is he's to be accorded some latitude to prove his theory along these lines. Now, it may not be proven, and I would suggest to you that you simply sit down because you have an exception as a matter

MR. SMITH: Of HO publication 134, which is the 6th edition, 1952, of the sailing directions for the west coast of Spain, Portugal and northwest Africa and offlying islands.

THE COURT: This will be received over the stirring objection of the defendant U.S. We'll call it 112. If it is enlarged later we will use letters.

(Plaintiff's Exhibit 112 received in evidence.)

Q Captain, would you measure the distance between buoy CA-5 and the position you have marked, "Pilot", on Plaintiff's Exhibit 2?

A Between the buoy?

Q Yes. What is that distance?

A A little over 500 yards.

Q 500 yards is how much?

A A quarter of a mile.

Q Was it your testimony that you picked up the pilot about a hundred yards off the buoy?

A Sometimes. Sometimes, but if I don't see him, I went to be out there where I can maneuver.

MR. SMITH: Move to strike the last part of that answer as unresponsive, your Honor.

THE COURT: Yes.

Q One hundred yards is approximately 100 meters,

isn't it?

A Roughly, yes.

Q When you were describing your appraoch to Casablanca, were you describing your approach from the east or the west?

A From the west. Approaching from--

Q From the U.S.

A Continental U.S.

Q If you were approaching from the east, would you make a lee in a different direction?

A You can't approach from the east.

Q You can't approach from the east?

A No, that's the land.

Q How about a general easterly direction?

A No, you see, there's mostly north and south in here because this land winds up to Cape Spartel entering the Straits of Gibraltar.

Q So if you were coming from the Straits of Gibraltar, you would come down on a southerly course; is that correct?

A Roughly, yes, it's about 030 from here to Gibraltar to Spartel.

Q What is the reciprocal of that?

A About 180 degrees.

Q Plus 30. It would be about 210, Captain?

A Yes.

Q It is necessary to make a lee there, isn't it?

A Yes, it is.

Q And a vessel--

A Under normal conditions it is, but you would make a lee form, yes, to keep the ship from rolling.

Q You can also make a lee by turning to starboard, isn't that correct?

A You can make a lee by turning either way.

Q How did you receive your first information that you could not pass between the buoy CA-5 and the end of the jetee, do you recall that?

A That goes back to this sailing directions that you showed me.

Q That's where you got your information from?

A That and local knowledge, from the pilots.

Q Have you seen pilots board vessels 100 yards or 100 meters south of buoy CA-5?

A Never.

Q You have never seen it?

A Never.

Q What was the draft of the Export Aide generally when she proceeded into Casablanca?

A 24, 25 feet.

Q I refer you to Defendant's Exhibit H, which is sailing directions, current from February of 1972. Would you refer to the section on Casablanca? Have you read this recently, Captain?

A No, I haven't.

Q When was the last time you read it?

A Oh, on board the ship at one time or another. We keep checking them up every once in awhile. There's always new additions coming to these things.

Q Would you look through there and see if there's any warning similar to the one in Plaintiff's Exhibit 112 with respect to the buoy and the end of the jetee?

A Yes. Do you want me to read it?

Q Yes, is there a warning?

A Yes, there's a buoy, "A lighted whistle buoy equipped with a radar reflector is moored close off the seaward extremity of the submerged section of the breakwater forming the outer portion of Jetee Delure."

Q Does that say it's dangerous topass between the buoy and the end of the jetee?

A It's moored close off the seaward extremity.

Q What does, "Close off", mean to you?

A It means that I would not attempt to ever go in between there.

Q Captain, would you measure the distance between the end of the jetee and the buoy?

A All right.

Q Let's get the original chart that was on board the Potomac at the time, Captain. It isn't marked up.

Q I don't see the dotted lines here.

Q How far is it between the end of the visible end of the jetee and the buoy?

A About 800 yards.

Q 800 yards?

A Yes.

Q How far is it between the end of the underwater construction and the end of the buoy?

A These dotted lines are approximations, you know, when they extend the breakwater like that. Five hundred.

Q Have you ever been in the Houston ship channel?

A Have I what?

Q Been in the Houston ship channel?

A Yes, I have.

Q How wide is the Houston ship channel, to your recollection?

A I was a watch officer on the Texas Ranger. It's quite narrow.

Q About 500 feet, is it?

A The channel itself?

Q Yes.

A I would say yes. Maybe not that wide at times.

Q In your service for the American Export Lines, wasn't it common for you to enter ports where you have less than 100 yards clearance of a breakwater?

A Yes.

Q I show you a line which goes around the end of the Jetee Delure, Defendant's Exhibit D. What is that line, Captain?

A What line is that?

Q The line that consists of three dashes, a longer space, three dashes, which starts right to the right of the word, "Progress", and goes eastward around the end of the underwater construction and back inside on the southern part of the jetee.

A That's a fathom curve line.

Q Do you know which fathom curve it represents?

A Yes, 10 fathom.

Q That represents the 10 fathom--

A Wait a minute. That's not the ten fathom curve.

The 10 fathom curve is out here. That would be the five fathom curve there.

Q Isn't it in fact a 6 fathom curve, Captain?

A Well, it could be 6 fathom.

Q Isn't three dashes a known Hydrographic symbol for a 6 fathom curve?

A I'd have to refresh myself on that.

Q I show you the mark for the 6 fathom or 36 foot curve. What does that show, Captain? We are referring to page 997 of--

A Three dashes.

Q That would be six fathoms; is that correct?

A Yes.

Q We are referring to page 997 at the top of Defendant's Exhibit B.

As a master mariner, what does that six fathom curve mean to you with respect to the water to the east of the curve?

A To the east of the curve?

Q Yes. In an easterly direction.

A Well, it means it's deeper.

Q It means it's at least 36 feet deep; is that correct?

A To the eastward of this, yes.

Q All right. Now, doesn't it also mean that there's at least 36 feet of water between that six fathom curve and the buoy?

A Not necessarily.

Q Is there any mark in there that shows between the curve itself and the buoy that there's less than 36 feet of water?

A No, there's no marks there to show it.

Q All right.

A When they extend the breakwater with dotted lines, they don't--you don't know how far it comes out.

Q Captain, isn't that breakwater clearly delineated inside of the six fathom curve?

A It shows it there, yes.

Q Isn't that also a symbol which is in Bowditch, Defendant's Exhibit D? Do you recall that, Captain? Or would you like to refresh your recollection?

A The one we just looked at?

Q Yes.

A Yes, I know that.

Q Isn't it closed off at the end? It's not open, is it?

A It's closed off on this chart, but I don't

chart or a British Admiralty chart?

A We used an HO chart.

Q Did you ever report to the Hydrographic Office that there was a discrepancy between the chart and your actual knowledge of the situation?

A No, I didn't because I don't believe there was.

Q Is there any reason why a vessel drawing 33 feet of water can't pass, according to this chart and not your local knowledge, Captain, according to this chart, between the buoy CA-5 and the six fathom curve around the end of the Jetee Delure?

A I don't know. I don't know.

Q You don't know?

A No.

Q You can't tell from this chart?

A As a prudent navigator, I would never think of going between there.

Q Why not?

A Because that buoy is out there for a purpose.

Q What kind--

A Right here it says it's close by.

Q What kind of a buoy is it, Captain?

A It's a black and white buoy.

Q It's a black and white?

A And flashes white.

Q What does a black and white buoy mean?

A It's a steel structure, lattice work almost.

Q A black and white buoy you can pass on either side, is it?

A As an obstruction buoy, you can pass it on either side.

Q So why couldn't you pass this one on either side?

A Because it's not there as an obstruction buoy, it's there marking the limits of the breakwater. To my knowledge.

Q From your local knowledge?

A From my local knowledge and from--

Q What does the chart show here? Does the chart show any construction between the six fathom curve and the buoy?

A No, it doesn't.

Q What is the purpose of the prohibited area between CA-5 to the westward where this red line goes in a northerly direction, where it says, "Prohibited anchorage"?

A That's to clear the approach in and out of port.

Q And that includes the area off the end of the

breakwater, doesn't it?

A Yes, it does.

Q Isn't that called a fairway?

A The fairway would be running through there, yes.

Q That's what it means to mariners who use Hydrographic Office charts, doesn't it?

A Yes. It means that you wouldn't anchor in there.

MR. SMITH: I have no other questions, your Honor.

THE COURT: Any redirect?

MR. SCHULMEISTERS: Yes, sir.

REDIRECT EXAMINATION

BY MR. SCHULMEISTERS:

Q Captain, the color of this buoy CA-5, what color is that?

A The light is white.

Q But what's the color of the buoy?

A I believe it's black and white. I don't remember.

Q By looking at a chart, what color buoy is that?

MR. SCHULMEISTERS: Let me withdraw the question for a moment.

MR. SMITH: Your Honor, I think I would like to have an answer to that question since it has been asked.

Q Let me show you Exhibit R.

MR. SMITH: I object. I think he's leading the witness now, your Honor.

THE COURT: I don't think he's leading the witness. He's trying to produce some chart to refresh his recollection, I gather.

Q Now, Exhibit R, CA-1, according to the chart, what color buoy is that? I am referring to this buoy and these letters next to it.

A Black and white, I guess.

Q All right. Now--

THE COURT: I couldn't hear that, I am sorry.

A Black and white.

THE COURT: That's CA-1.

Q Now, the markings for CA-3 and CA-5, what color buoys are they?

A It doesn't say what color they are.

Q What does that diamond shape mean?

A Where?

Q Next to each buoy CA-3 and CA-5.

A Red.

Q No, that's the circle. The diamond.

A It's a black buoy.

Q On a CA-1, how does the diamond look?

A White.

Q White with a black slash through it, right?

A Right.

Q So CA-1 is a black and white buoy, right?

A Yes.

Q What color buoy is CA-3 and CA-5?

A Black.

Q On this other chart, Exhibit D, CA-5 is what color buoy?

A That's black, too.

Q Mr. Smith asked you whether you had ever seen pilots board a ship 100 yards south of buoy CA-5 and you said never. Will you please explain why, if you know.

A South of the buoy you would not be clear of it--inside the breakwater. And you'd be broadside nearly to the swell. And rolling so bad that he couldn't board you.

Q Is the swell larger there south--

A The closer in to the shore here, the higher the swell gets.

THE COURT: Anything else?

one point. I think it's an unfair question because he's not asking U.S. chart or chart of U.S. waters, and I think the Captain just distinguished.

THE COURT: We know that, Mr. Schulmeisters. The point simply is that this is a Hydrographic Office chart and not a British Admiralty chart and not a French chart.

Now, let's get at it. The question is what? What does a black buoy mean on this particular chart, right?

MR. SMITH: On a Hydrographic Office chart.

A It would be an obstruction buoy.

Q It would also be a channel buoy.

A Very well could be a turn buoy.

Q Under the U.S. system you use, in entering from seaward, black buoys on the port hand; is that right?

A Yes.

Q Is there anything on this chart that says that this system is different than the U.S. system?

A No, it doesn't.

Q Is there anything in Defendant's Exhibit H which says that the system is different than the U.S. system?

A I don't believe so.

MR. SMITH: No other questions, your Honor.

THE COURT: Thank you, Captain.

MR. SCHULMEISTERS: Your Honor, with this I would just like to ask one question.

THE COURT: Look, you gentlemen kill all interest in this case by your picky questions which you repeat so often and I might say particularly you, Mr. Schulmeisters. What's the necessity of this?

You are excused, Captain. Thank you very much.

(Witness excused.)

THE COURT: Does the government wish to offer any more live witnesses?

MR. SCHULMEISTERS: Not live ones, your Honor. Documents and some deposition testimony.

THE COURT: All right. Well then, let's proceed to introduce the documents with a generic description and their proposed number. Mr. Smith can object and we will rule.

MR. SCHULMEISTERS: Now, Mr. Smith introduced Mr. Hunziker's deposition. I would like to introduce Exhibit DD.

THE COURT: Is that Boy, Boy?

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Plaintiff's Exhibit 11

(See opposite) ☞

ROYAUME DU MAROC

MINISTÈRE DES TRAVAUX PUBLICS
ET DES COMMUNICATIONS

Direction du Port de Casablanca

المملكة المغربية
وزارة الاشغال العمومية
والمواصلات
ادارة ميناء الدار البيضاء

ميناء الدار البيضاء

PORT DE CASABLANCA

P-ANDERSON-# 11
12-8-72
WCL

Encl to doc.

6-865-0104-69 —— 2447 —— Oct. 7, 1969

NOTE — Irrelevant material discarded

54-13/2. Indexed 8-4-70

307a
Plaintiff's Exhibit 11

Enclo 1-5 to 6865 0104

ENCLOSURE 1 TO USDAO RABAT
IR 6 865 0104 69

308a
Plaintiff's Exhibit 11

ميناء الدار البيضاء

PORT DE CASABLANCA

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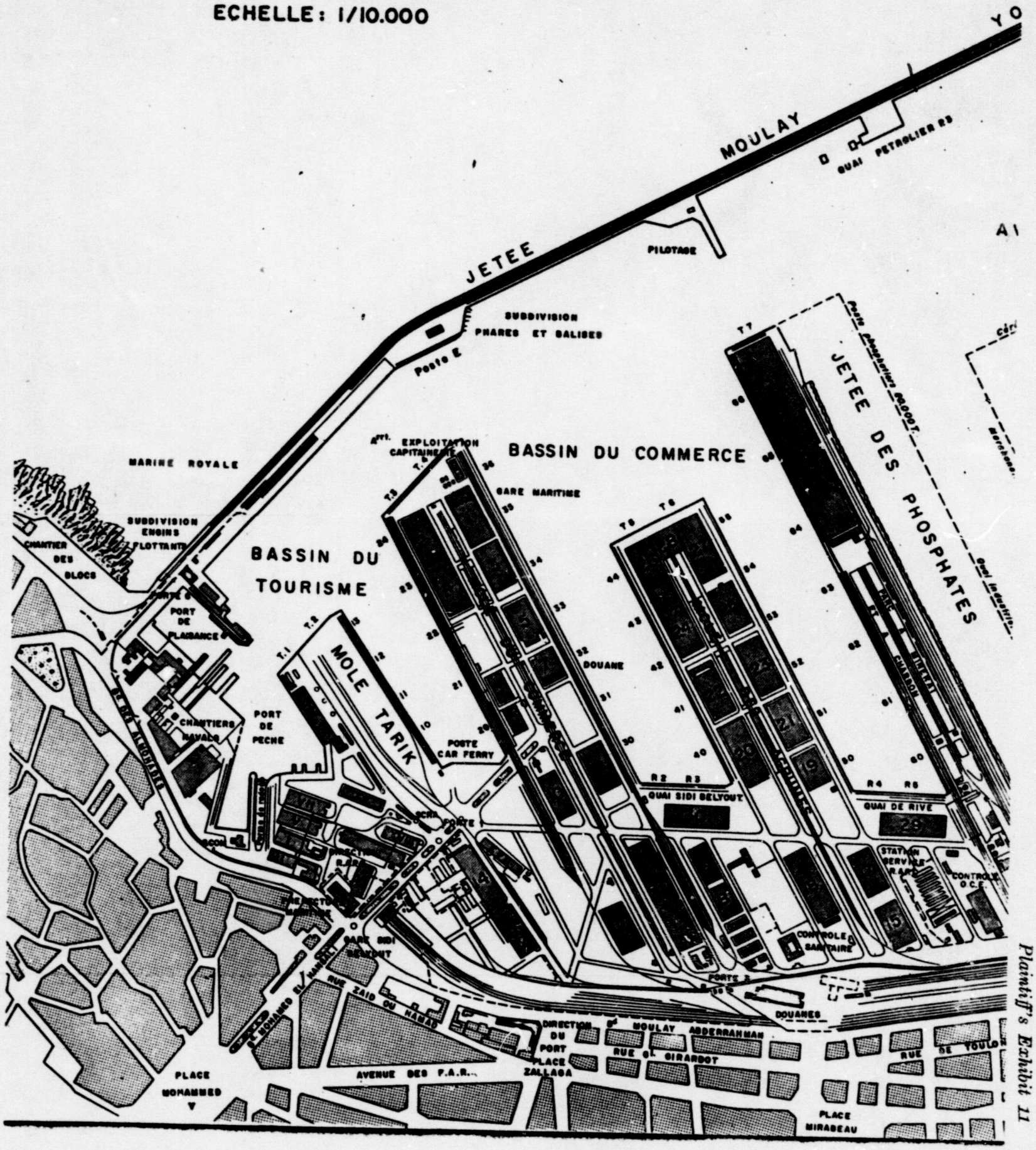
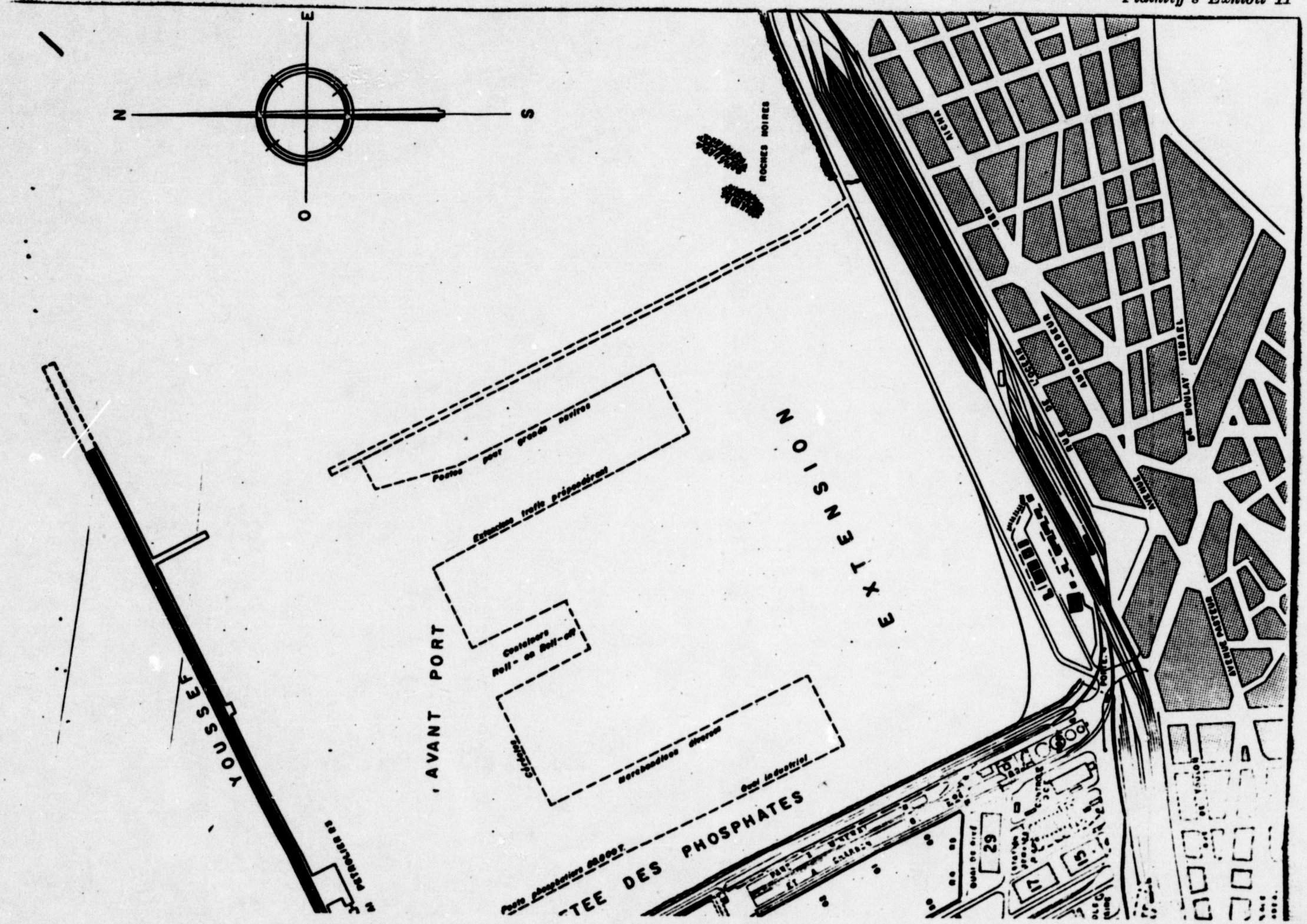


309a
Plaintiff's Exhibit 11

Plaintiff's Exhibit 11



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ANNEE INTERNATIONALE DU TOURISME AFRICAIN

- LE PORT DE CASABLANCA -

— Port artificiel accroché à une côte particulièrement difficile, CASABLANCA est devenu en moins de Cinquante Ans un Port de première importance, avec un trafic supérieur à Onze Millions de Tonnes.

— Ce développement exceptionnel est dû en premier lieu à la conception très moderne de son infrastructure, qui permet de recevoir à toute époque de l'année la plupart des unités de la flotte marchande, et à son équipement abondant et varié, qui s'adapte à toutes les natures de trafic.

— Par ailleurs, le Port est relié aux Pôles Principaux de l'activité économique du pays, par un réseau de qualité tant routier que ferroviaire.

— L'essor rapide du port est également lié à celui de la Ville où se sont développées parallèlement les activités commerciales et industrielles. Aux industries de conditionnement et alimentaires, s'ajoutent de plus en plus des industries de transformation qui ouvrent de nouvelles perspectives au développement du Trafic. L'agglomération urbaine dépasse le million d'habitants et constitue à elle seule un centre de consommation très important :

— Port de Transit et Port Industriel, CASABLANCA assure les deux tiers du trafic maritime du Maroc.

1 - INFRASTRUCTURE.

— La protection du Port contre les fortes houles de l'Atlantique qui atteignent couramment 4 à 7 mètres d'amplitude, est assurée par une grande jetée d'une longueur de 3.180 mètres, réalisée en blocs artificiels de 100 tonnes reposant sur des enrochements. En l'absence de site naturel exploitable, un ouvrage aussi considérable était nécessaire pour créer le vaste plan d'eau abrité qui sert de cadre à l'ensemble des installations actuelles. La disposition de l'ouvrage, qui est sensiblement parallèle à la côte et à une distance de deux kilomètres environ de celle-ci, permettra d'adapter l'extension du Port au développement du trafic par allongements successifs de l'ouvrage de protection.

— Le Port proprement dit, dans sa phase actuelle, est délimité par un ouvrage secondaire, la Jetée des phosphates, établi perpendiculairement à la Jetée Principale en ménageant une passe d'entrée d'une largeur de 210 mètres entre le Port et l'avant-Port.

(A)

— L'avant-port offre un plan d'eau utile de 100 hectares environ, réservé pour l'extension future du Port. A l'heure actuelle un seul ouvrage destiné à un trafic commercial y est établi : c'est le quai pétrolier, adossé à la Jetée Principale au point métrique 2.000. Ce quai est fondé à la côté - 12 m.

311a
Plaintiff's Exhibit 11

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NOTICE TO MARINERS REQUEST
NDW-NAVOCEANO-5610/17 (REV. 12-

316a
Plaintiff's Exhibit 14

From: Code 5640 Date: 7/2/71

To: Code 5512

Subj: Notice To Mariners; submission for

1. It is requested that the following information be published in Notice To Mariners:

11 corrections(s) indicated in blue on body of chart.

8 of these annotated in red in margin is/are recommended for immediate Notice to Mariners.

1. Revise shore line of wharf — Make mine.
2. Extend slips — Make mine
3. Add piers — Make mine
4. Add depth of 5 1/4 fathoms — N.M. 1/72
5. Add depth of 1 3/4 fathoms — NM 1/72
6. Add stranded wreck — Make mine.
7. Change light legend to Iso G 4sec — Make mine.
8. Delete mooring buoy — Make mine.

5512
RCA
12/8/71

CHART(S) AFFECTED

NO 51222 (H.O. 3777)

AUTHORITY

French Chart 5697 Edition No. 5 Dec 1955, Large Corr No. 1. June 19

ORIGINATED BY

George M. Tilley Code 5642

APPROVED BY (Head, Chief Hydrographer Branch)

A.L. Johnston

Copy (1)

ECM

ENCLOSURE (4)

GPO 885-

Plaintiff's Exhibit 17

Chart 860, plan of Rade Casablanca.

Lights.—The light on Pointe d'El Hank has been described on page 213.

Roches-Noires light is exhibited, at an elevation of 64 feet, from a tower, 52 feet (15m8) in height, situated on the coast 2¾ cables south-eastward of Les Roches Noires. It is difficult to identify.

A light is exhibited, at an elevation of 20 feet (6m1), from a white tank with a black top, 13 feet (4m0) in height, situated on the spur close within the head of Jetée Delure (*33° 37′ N., 7° 36′ W.*).

A light is exhibited, at an elevation of 20 feet (6m1), from a black pylon, 3 feet (0m9) in height, situated on the spur opposite the head of Jetée Transversale.

A light is exhibited, at an elevation of 20 feet (6m1), from a black pylon, 3 feet (0m9) in height, situated on the north-eastern corner of the head of Jetée Transversale.

A light is exhibited on the north-western corner of the head of Quai des Phosphates.

Leading lights are exhibited, the front light, at an elevation of 105 feet (32m0), from a tower on a building, 92 feet in height, situated about 1¼ cables southward of the light at the head of Quai des Phosphates; the rear light, at an elevation of 154 feet (46m9), from a silo, 154 feet (46m9) in height, situated near the root of Mole du Commerce. These lights, in line, bearing 228°, lead into the harbour.

Chart 820.

A light, for the use of aircraft, is periodically exhibited, at an elevation of 262 feet (79m9), from a metal pylon, 98 feet in height, on Cazes Airfield, about 3 miles south-westward of Pointe d'El Hank lighthouse (*33° 37′ N., 7° 39′ W.*).

Chart 860, plans of Rade de Casablanca, and Approaches to Casablanca and Mohammedia.

Buoyage.—A black light-and-whistle-buoy, fitted with a radar reflector, exhibiting a *white group flashing* light showing *three* flashes *every twelve seconds* is moored about 4 cables east-north-eastward of the head of Jetée Delure.

A black light-buoy, fitted with a radar reflector, exhibiting a *white flashing* light *every six seconds*, is moored about 1¾ miles northward of the head of Jetée Delure.

A light-buoy, painted in black and white stripes, fitted with a radar reflector, exhibiting a *white flashing* light *every one-and-a-half seconds*, is moored about 3¼ miles northward of the head of Jetée Delure.

Chart 860, plan of Rade de Casablanca.

Pilotage.—Pilotage is compulsory for merchant vessels over 100 tons; it is optional for Naval vessels, but is recommended if they are unfamiliar with the port. The pilotage area is bounded on the eastern side by the meridian of Table d'Oukacha, on the north by the parallel of 33° 37′ 40″, and on the west by the meridian of the root of Jetée Delure.

Entry and departure are co-ordinated by the Port Administration, and are made between 0600 and 2200 in three groups, morning, midday and evening, except in cases of emergency. Vessels arriving should anchor in the pilotage area and await orders. Vessels requiring a pilot on departure should apply to the captain of the port fifteen minutes in advance.

A red flag displayed at the signal station indicates that the pilot cannot come out, on account of the state of the sea, but vessels may

Chart 860, plan of Rade de Casablanca.

enter the port at their own risk and the pilot will await them under the shelter of Jetée Delure.

Should bad weather prevent the pilot from coming out, a vessel should not attempt to enter the harbour at night as it is dangerous.

Signal station.—Storm signals.—Traffic signals.—There are signal stations on the spur opposite the head of Jetée Transversale, on the north-eastern corner of Jetée Transversale, and on the silo on Mole du Commerce (33° 36′ *N.*, 7° 37′ *W.*). Vessels can communicate by the International Code of Siganls by day or night. Storm signals are shown.

The following signals are shown, to warn vessels in the harbour, when a swell of more than force 4 is expected:—

By day	*At night*	*Signification*
A black ball over a black cone.	Three *green* lights, vertically disposed.	Dangerous swell, force 5, probable within next 24 hours.
A black ball over two black cones, points down.	A *red* light between two *green* lights, vertically disposed.	Very dangerous swell, force 6 or above, probable within next 24 hours.

International traffic signals are shown. *See* page 32.

Anchorages.—The anchorage outside Casablanca harbour is partially protected by Promontoire d'El Hank from winds between south and west, but a westerly swell finds its way into the bay. A westerly swell may set in with very little warning, especially in the bad weather season, October to April; with a heavy westerly or north-westerly swell the anchorage becomes dangerous.

Vessels should not pass between the head of Jetée Delure and the light-and-whistle-buoy moored about 4 cables east-north-eastward.

The holding ground in most places outside the harbour is poor, the bottom being nearly everywhere sand and rock, but a berth with good holding ground of sand and mud may be obtained, in a depth of 13 fathoms (23m8), northward of the head of Jetée Delure.

There are numerous anchorage berths in the outer part of the harbour in depths up to 7 fathoms (12m8).

A small area of foul ground, lies about 3½ cables southward of the head of Jetée Delure.

Spoil ground.—A spoil ground is situated close southward of the submerged protection wall off the eastern side of the Jetée Transversale.

Charts 860, plan of Rade de Casablanca, and plan of Approaches to Casablanca and Mohammedia, 820.

Directions.—Vessels approaching from southward should give Pointe d'El Hank a birth of about 2 miles; the conspicuous chimneys of the electricity station in line with Sidi Moumene, a tomb standing at an elevation of 379 feet (115m5), just over 3 miles south-eastward, bearing 122°, leads northward of Pointe d'El Hank in a least depth of 11 fathoms (20m1).

Prohibited anchorages.—Beacons.—Anchorage is prohibited in the area indicated on the charts westward and northward of Pointe d'El Hank (*33° 37′ N., 7° 39′ W.*). Two beacons, each consisting of a pyramid, 33 feet (10m1) in height, and surmounted by a topmark, indicate the southern ends of the eastern and western limits of this prohibited anchorage.

Charts 820, 1228, 1, 1226, 2060a, 4011, 2059.

Plaintiff's Exhibit 101

LS No. 32348-G

Copy of the Sailing Directions

Africa-West Coast

Series C Volume IV

of

The Navy Hydrographic Office

5.3. Casablanca and its approaches

Charts 5462, 6111, and 5697

Radiobeacons: El Hank and Oukacha

5.3.0. General

5.3.0.0. The Casablanca harbor extends from the Table d'Oukacha-- 10 miles SSW. of Cape Mohammedia--on the east to Point El Hank (Cape Dar El Beida) (33°37'N.--7°39'W), five miles further to the west.

The city of Casablanca extends along the entire length of the harbor.

The port, built on the western side of the harbor, is gradually extending to the east. It is accessible to vessels of up to 11 m. draft.

5.3.0.1. Signal Stations--To pilots: Traffic and bad weather signals are located on the SW. end of the Moulay Youssef (Delure) Jetty, in front of the Phosphates Jetty; international code, day and night, on the roof of the dock-silos located at the base of the Commerce Mole.

5.3.0.2. Rescue Station--On the SW. end of the Moulay Youssef (Delure) Jetty.

5.3.0.3. Tides and Currents--The height of the tide varies from 1.4 m. to 3 m. The prevailing winds are from the SW.-NW. in winter

and from the E.-NE. in summer. The currents they cause are the strongest; they run parallel to the coast in an ENE. or WSW. direction.

5.3.0.4. Swell--The harbor is subject to the direct effect of the W. and NW. swells that form primarily during the winter in the North Atlantic (section 0.2.6.1.); their height may exceed 7 m. in some exceptional cases, their period varies from 15 to 20 seconds.

These swells, which occur even when the local weather is good, generate a harbor undertow which is particularly strong under the wharves. Thus, mooring lines may be subjected to considerable strain and vessels must take necessary precautions to protect them. Vessels are advised to use only lines, as well as fenders provided by their agents. Work, however, is rarely suspended. For swell warning signals see section 5.3.6.1.

5.3.0.5. Weather Forecasting--Forecasts may be obtained by calling 514-31, 32, 33, or 34 or 620-84 (Weather Bureau annex, Warehouse No. 1 bis, Commerce Mole).

5.3.1. Making the Land--The city provides good radar echo (Appendix IV).

Night: The best landmarks are the El Hank and Oukacha lights; the rear light of the channel lights, which is higher and more powerful than the city lights; the municipal office building tower with its red lights; and sea buoy CA1.

Day: The most visible landmarks are the Sidi Moumène marabout (117 m.), standing on a ridge 3 miles inland; the Oukacha water tower, located near the coast 0.5 mile east of the Table d'Oukacha; the smokestacks of the Roches Noires electric power plant 0.4 mile ENE.

of the Roches Noir lighthouse; the three smokestacks of the Palmier plant, which are lined up north and south, one has a widening around it, and are located 0.5 mile SSE. of the Roches Noires lighthouse; the Commerce Mole silo (signal station); the green roof of the railroad station; the minarets of the Sultan and Nouvelle Medina mosques; the towers of the cathedral; the El Hank lighthouse with its two neighboring radio towers and the Anfa Hotel standing 1.3 miles to the SW.; the Casablanca-Anfa aeronautical beacon; and the Sidi Maarouf smokestack 5.7 miles south.

5.3.2. Pilot Services--The use of pilots is compulsory within the limits of the port for all commercial vessels of over 100 tons gross tonnage.

The limits of the port are:

East: The Table d'Oukacha meridian (7°33'45" W.);

West: The meridian passing through the base of the Moulay Youssef Jetty (7°37'10"W.);

North: The 33°37'40"W. parallel [sic] (buoy CA5).

The use of pilots is optional for war vessels, but all vessels are advised to use pilots if they are not familiar with the port.

Pilot services are available day and night; night services, however, must be prearranged.

Pilots board vessels near lighted buoy CA5. During daylight hours, if the condition of the sea does not permit embarking pilots, pilots may embark on the inland side of the Jetty, (section 5.3.6.1.).

On entering port, pilots shall be requested through the Casablanca radio station, on VHF (manual 192) by signal code. On leaving port,

pilots shall be requested from the Harbor Master's office 15 minutes ahead of time.

5.3.3. Access to the Port--Sea buoy CA1, black and white, lighted with radar reflector, and buoy CA3, black, lighted, with radar reflector, are moored 3 miles and 1.5 miles north, respectively, of buoy CA5, a black, lighted, whistle buoy with radar reflector, which marks the end of the Moulay Youssef Jetty construction area. Passage between that buoy and the Jetty is forbidden. Access to the port is facilitated by lining up at 228° the north tower of the Phosphates building, located near the end of the Phosphates Jetty, and NE. corner of the large silo located on the Commerce Mole.

5.3.4. Mooring--Mooring berths at the end of the port are partially protected from S. and W. winds by Point El Hank,but the W. and NW. swell is felt in that area. The swell may arrive suddenly, particularly during the bad weather season. When the swell is strong, mooring in the harbor becomes dangerous. The bottom is either rocky or sandy in most of the harbor; the hold, therefore, is poor.

The port is frequently crowded and incoming vessels have to use waiting berths outside. Vessels may moor in the outer port between the shoals bordering the coast and the access channel, as close to the Phosphates Jetty as possible. When the swell reaches force 4 vessels must get under way, since they would run the risk of drifting or dragging the anchor. When space is not available in the outer port, under the protection of the Moulay Youssef Jetty, it is preferable to moor on the seaward side of the 20 m.

7212

fathom line, east of the eastern limit of the forbidden mooring area (Chart 6111), in a sand-mud bottom.

5.3.4.1. Forbidden Mooring--Mooring is forbidden in the area of the CA5 buoy (Chart 5697) to keep the entrance to the port clear; it is forbidden in the area east of the El Hank lighthouse meridian (Chart 6111) because there are submarine cables there.

5.3.5. Regulations

5.3.5.1. Movements of Vessels--Arriving vessels shall moor in the pilotage area (section 5.3.2.) to await pilots or orders.

Except in emergencies, entering and leaving port shall be coordinated movements made at any time of the day or the night. Such movements shall be regulated by the port autorities, not on the basis of the time of arrival of vessels, but so as to ensure the provision of maintenance services within the shortest possible time.

5.3.5.2. Health Services--See general information.

5.3.6. Signals--The signals for entering and leaving port, as well as the bad weather signals, are the customary ones (manual No. 1).

5.3.6.1. Special Signals--Pilotage--Red Flag: The condition of the sea does not allow the pilot to go out, but you may stand in to enter port at your own risk; the pilot awaits you on the inland side of the Jetty.

Certified True Copy

[Signature]

Harbor Master [Port stamp]

CERTIFICATION OF TRANSLATION

I hereby certify that the above translation bearing No. 3234SA-G was prepared by the Division of Language Services of the Department of State and that it is a correct translation to the best of my knowledge and belief.

Dated:
DEC 1 4 1972

Marcella V. Trenkner
Acting Chief, Translation Branch

Plaintiff's Exhibit 101

DEPARTMENT OF STATE
DIVISION OF LANGUAGE SERVICES

(TRANSLATION)

LS NO. 32348-A
R-XXXVI/R-XVIII
French

Kingdom of Morocco
Ministry of Public Works and Communications
Office of the Director of the Port of Casablanca
No. 424 T

Casablanca, August 30, 1972

The Director of the Port of Casablanca

to

Mr. R.L. Himes
Vice Consul of the United States of America
Casablanca

Subject: Stranding of the SS Potomac on February 26, 1972 at the Moulay Youssef Jetty.

Reference: Your letter of August 16, 1972

Enclosures: Copy of the Port Duty Officer's report;
Copy of Pilot Boon's report;
Copy of traffic schedule;
Copy of tide table;
Copy of piloting regulations;
Copy of sailing directions.

Sir:

In reply to your letter, to which reference is made above, I enclose the information, materials, and documents you requested.

I wish to specify, moreover, that the stranding of the SS Potomac occurred at a point between the end of the Moulay Youssef Jetty and buoy CA5, in the forbiden passage, (Sailing Directions, Article 5.3.3., enclosed). The position of the stranded vessel was determined "by sight" by the duty officer, the pilot, and the port signalman.

Plaintiff's Exhibit 101

- A2 -

In addition, the entering time scheduled by the Harbor Master, which had been established with due consideration to the tide and to the draft of the SS Potomac, was disregarded by the captain, who arrived when the tide was half way out (traffic schedule and tide table enclosed).

The use of pilots is compulsory. This obligation is set forth in the vizierial order of February 20, 1967 (copy enclosed) for an area delineated in the sailing instructions (copy enclosed).

I believe the foregoing information will satisfy your needs.

Sincerely yours,
[Signature]

A. Sabbane
[Ministry stamp]

Plaintiff's Exhibit 103

(See opposite) ☞

OVERSIZE FOLDOUT(S) FOUND HERE IN
THE PRINTED EDITION OF THIS VOLUME
ARE FOUND FOLLOWING THE LAST PAGE
OF TEXT IN THIS MICROFICHE EDITION

SEE FOLDOUT NO. 14

Plaintiff's Exhibit 104

P R O C E E D I N G S

Whereupon,

GEORGE MOORE UBER

was called for examination by counsel for plaintff, and having been first duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR PLAINTIFF

BY MR. SMITH:

Q Please state your full name.

A George Moore Uber.

Q What seafaring background, if any, do you have?

A Quartermaster in the Coast Guard.

Q How long were you in the Coast Guard?

A Approximately 42 months.

Q 42 months. What rate did you hold?

A Quartermaster, Second Class.

Q Quartermaster, Second Class.

Did you have any navigational training in addition to that which you had received as a quartermaster in the Coast Guard?

A No.

Q What is your occupation?

A Cartographer.

Q By whom are you employed?

A U.S. Defense Mapping Agency, Hydrographic Center.

Q How long have you been so employed?

A By this place?

Q Yes. As a cartographer.

A 1957, July 1957.

Q Did you have any training prior to coming here in the occupation of cartography, profession of cartography?

A Aeronautical Chart and Information Center.

Q Is that a U.S. Government agency?

A Yes. Seven years.

Q Is that an on-the-job training program that you had?

A Yes. I was cartographer.

Q Well, what I am getting at, did you have any formal training or education in cartography?

A Only in topography.

Q College?

A Columbia Technical Institute.

Q How long a course was that?

A One year. Night school. And also geomorphology, that is a government course.

Q Aside from that formal education, then, all of your experience has been gained in actually working on the job; is that right?

A Yes.

Q Who put that on there?

A I probably did while investigating this French chart. Sometimes you get a blue pencil in your hand, you see a difference. You might put a little circle there without thinking and then you are going on and on.

Q What difference did you see?

A Probably the difference in this length of this jetee under construction.

Q Is there a difference? Can you check that against the chart that you used?

A I prefer to use this chart here if I could. It would be easier to work with.

Q All right.

MR. SMITH: Let the record show that Mr. Uber has overlaid Plaintiff's Exhibit Ellis 8 over Plaintiff's Exhibit Uber 13.

THE WITNESS: See, this is extended -- I probably noticed that difference, the extension out in there. (Indicating)

BY MR. SMITH:

Q What difference are you talking about?

A The length of this area under construction, or work

in progress out here. (Indicating)

Q You said it is extended out. Which chart is it extended out on?

A It is extended out on the French.

Q It is farther on the French chart?

A That is correct.

Q Which is the French chart?

A This is your French chart, 5697.

Q When you say it is extended out farther, are you talking about visible part of the breakwater?

A The part in work, or work is in progress on. Under construction or whatever they call it.

Q And that is why you marked the end of the breakwater?

A In all probability, yes.

Q Now, you only marked the visible end, is that correct?

A Well, I could have marked it here (indicating), could have marked it there (indicating) --

Q Why did you mark it?

A While you are looking, you see the--notice the difference --

Q Why did you mark the visible end, not the underwater section?

A That I dont' know. Can't answer that.

Q Let me finish the question, then we will read it back to you -- and Plaintiff's Exhibit 13?

MR. SMITH: Read the question back, please.

(The pending question was read by the reporter.)

THE WITNESS: Not to my knowledge, that I can remember.

BY MR. SMITH:

Q Do you keep a record of these comparisons?

A No, I don't.

Q The record is kept on the chart, is that correct?

A The ones that are made, yes.

Q Now, when you make a comparison of the chart, do you mark both charts or do you mark just the chart that you receive?

A Just the foreign chart, the chart that I receive.

Q And what do you do with respect to the standard chart, anything?

A No.

Q After a notice to mariners was put out on the items you put out on the French chart, Exhibit 13, did you make any changes in the chart to take care of those notices to mariners?

A Not me. It is not my position.

Q You mean somebody else?

A No.

Q Somebody else in the Chart Section might do it?

A That is correct. You are referring to marking up the master standards from the notice to mariners or corrections?

Q Yes.

A I could do it -- not at this time, because I was not in that section at that time. I was doing this work for them. But one of the maintenance personnel will make the corrections on the standard from the notice to mariners.

Q Well, in this particular case when you marked up the French chart with those notice to mariners, were the notices actually put out?

A There is no way I can tell. I don't follow it up.

Q That would be followed up by somebody else, if the notices were put out?

A No. No.

Q How does the master standard change then at sometime? How is the master standard changed if you don't note it on the master standard at the time you make the comparison and you don't get any feedback from anybody else?

A At a new edition stage when they make a new edition of the NO chart, they pull the most compatible scale. They date the scale chart, foreign chart in the area, native to the

chart. There might be a charge put in what we call the charge box recommending this chart be reinvestigated at its next printing; that whenever they reprint the chart, they look at the charges. They either waive them, what they call charges they either waive them or act on them.

Q In other words, at the time you made this comparison nothing was done to the standards chart?

A I don't know.

Q Well, you didn't do anything?

A No, I didn't. Anybody could have, or anybody couldn't.

I don't follow it up.

Q Well, what happened to this French chart after you make the marks on it and you send -- what is it, a memo to the Notice to Mariners Section?

A That is correct.

Q What happens to the French chart after that?

A I believe it goes back in file at our Chart Library. And when Maritime Safety gets around to writing the notice, they will pull that chart.

Now, at one time we were sending the chart along with the notice request to Maritime Safety. Now, whether they still do that or not I don't know.

A Yes.

Q Would you please explain how you did the processing of the French chart together with the master standard, referring to Exhibits 8 and 13?

A Well, with these both charts being close to the same scale, it is simple, more simple to just overlay one on top of the other and take an area at a time and just flip one chart. (Indicating)

Q You are moving the master standard up and down and examining that and the French chart underneath, right?

A That is correct. And we notice any grade differences or changes that you think that should be written, notice to mariners, you record on your foreign chart and circle, draw your line out.

Now, not all lines that you draw out do you necessarily request notice to mariners for. Only the ones that are circled in red that you think should be written, you circle in red just like I had down here.

Q You are referring now to these red numbered circles on the bottom of Exhibit 13, right?

A That's right, so it makes it easier for Maritime Safety to locate the object and adhere to the request.

Q Before we go into that, you talked about comparative

scales. Are the other scales exactly the same?

A Very close to it.

Q Are they actually the same?

A No.

Q So there would be a slight difference?

A There would be.

MR. SMITH: How much difference? What is the difference in the scale?

THE WITNESS: Oh, about 1 to 40.

MR. SMITH: That is a difference, 1 to 40?

THE WITNESS: Yes.

BY MR. SCHULMEISTERS:

Q In other words, there would be 40 feet difference in every inch on the chart?

A One -- on the ground. In other words, let me see this, at this scale I think it would be best to put-- if this were, say, 1 to 10,000, which it is--

MR. SMITH: Which one are you referring to?

BY MR. SCHULMEISTERS:

Q 1 to 10,000.

A And the NO chart 3777 was 1 to 5,000, which it is not, this chart would be twice the scale of this chart. (Indicating)

Q Okay, I follow you now.

All right, I am with you.

Now referring to Exhibit 13, I see you made various circles in blue. Most of these circles we do lines down towards the edge of a chart and made a certain notation next to each.

For example, number 1 is "change CG shore line"?

A Right.

Q "CG shore line" is a blue one -- excuse me, the number is in red.

Now, here on Exhibit 14, number 1 is shore line.

Do these two items correspond?

A They do.

Q All right. I see eight such red marks on Exhibit 13 and eight items on Exhibit 14.

Is that correct?

A Which one are you speaking of?

Q Eight numbered items.

A Yes, there are eight.

Q I see there is another blue circle with a line going to the edge of the chart in blue without a red number. What is that?

A That indicates these are drawing areas which are

not deemed hazardous enough to write a notice tomariners request. It could be changed at the next printing where they could include these soundings without much trouble.

Q Now, this is your opinion as to what is and what is not hazardous, is that correct?

A That is correct.

Q I also note here towards the tip of the breakwater, a blue circle, and I do not see any lines leading from it nor a red number assigned to it. Can you explain why?

A No, I cannot.

Q If you would have considered [illegible] you have requested a notice to mariners?

A Yes.

Q Is it correct to say that you did not consider it hazardous at the time you were making the comparison?

A Yes.

Q Can you explain why?

A For the simple reason that this area is--

Q You are pointing now to the tip of the breakwater, right?

A Yes. Work is in progress, which could change daily the limits of it. And if at such time that it would be completed, then the French would put out I am sure a notice

stating that it has been completed. With the distances and bearing, or the limits of it.

Q All right.

A And as long as there is such little difference in it, that I didn't think it was necessary it have a notice written on it.

Q I see. Now, as far as determining whether or not the notice to mariners should be issued, is that within your province or within somebody else's province?

A Well, that is within mine.

Q This is as far as writing up this recommendation?

A That's right.

Q But whether or not the actual notice is going to be issued, does that depend upon you or somebody else?

A That depends upon somebody else.

Q Anyone in your Charting Section?

A Could. In other words, this gentleman here, my unit head, could have added information on this, or he could have struck out information.

Q Now, let us go back to Exhibit 14 now. Is all of that Exhibit 14 -- I am now referring to the area between solid lines -- is all of that in your handwriting?

A No. This is not (indicating).

A That is correct. Because it goes to three people besides myself as far as I know.

Q One more thing. You said there was a difference in length of -- how much of a difference was that?

A Well, if you want, approximately 50 yards.

Q What is the difference, if any, between the end of the 6 fathom line on Exhibit 8 and the most northeast section of the light blue color marking on the exhibit, on the French chart?

A About 25 yards.

Q And when you noted the difference and made this blue mark, you did not think that was sufficient enough to recommend a notice to mariners?

A No, I did not, based on this statement right here (indicating).

Q What statement is that?

A "Work in progress."

MR. SCHULMEISTERS: Thank you.

I have no other questions.

FURTHER EXAMINATION BY COUNSEL FOR PLAINTIFF

BY MR. SMITH:

Q Did the 6 fathom line on the U.S. chart, Plaintiff's Exhibit 8, have any bearing on your decision not to issue

Plaintiff's Exhibit 105

P R O C E E D I N G S

Whereupon,

GLENN R. DeYOUNG

was called for examination by counsel for the Plaintiff, and having been first duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR PLAINTIFF

BY MR. SMITH:

Q Please state your full name.

A Glenn R. DeYoung.

Q By whom are you employed?

A Defense Mapping Agency, Hydrographic Center.

Q That is an agency of the United States Government?

A Yes.

Q How long have you been so employed?

A I have been with this agency since September of 1951. It will be 22 years in September.

Q Prior to 1951, what was your occupation?

A I was a merchant mariner.

Q What background do you have as a merchant mariner?

A Graduate of the United States Merchant Marine Academy, hold a master's license.

Q What year did you graduate?

Q How about within your own agency, do you receive information from other sections?

A Right, we receive memorandum type forms from cartographers or from our Navigation Science Department. Sometimes, we just received something the other day from the Environmental Protection Agency. We receive material from the National Ocean Survey.

Q Do you receive material from your Sailing Directions Section?

A Yes, we receive material from Sailing Directions Section.

Q On a regular basis?

A It is not on a frequent basis.

Q On what basis does the Sailing Direction Section send you information?

A Well, upon their discovering something that is radically wrong with their publication, they will provide us with something to insert into the notice to mariners, something of major importance they feel should be corrected.

Q And then that is put out in the notice to mariners, is that correct?

A Correct.

Q And copy of that would go to the cartographer then,

P R O C E E D I N G S

Whereupon,

ROLF D. ANDERSON

was called for examination by counsel for the plaintiff, and having been first duly sworn by the notary public, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR THE PLAINTIFF

BY MR. SMITH:

Q Please state your name for the record.

A My name is Rolf D. Anderson.

Q By whom are you employed?

A The Defense Mapping Agency, Hydrographic Center.

Q In what capacity?

A As a marine information specialist.

Q And this is an agency of the United States Government.

Is that correct?

A DMAHC is an agency of the United States Government.

Q And as a -- what was your title; marine specialist?

A Marine information specialist.

Q As a marine information specialist, what are your duties?

A At the present time my duties consist of compiling

new editions to sailing directions.

Q How long have you been in this particular assignment?

A By "particular assignment," I assume compiling new editions --

Q Yes, sir.

A Probably 1-1/2 years.

Q Prior to that, what was your assignment?

A Prior to that time my principal assignment was compiling changes to sailing directions.

Q And for how long were you in that assignment?

A I compiled changes to sailing directions from 1961 to approximately 1971; about a ten-year span.

Q How long have you been employed by DMAHC and its predecessors?

A Well, DMAHC and its predecessors, in a plural, from 1961 to the present, 1972.

Q And what was your occupation prior to that time?

A Well, as a seagoing mariner, student.

Q Let's go back to your high school days.

You graduated from high school, I presume.

A Graduated from high school, yes.

Q Did you go to another school or university there-

after?

A Well, having graduated from high school in 1945, I entered the Navy from -- well, entered the Navy in 1944, and was graduated in 1945, and left the Navy in 1946.

From 1946 to 1950 I was a student in several schools, graduated in 1950 from the University of California.

From 1950 to 1953, a student, California Maritime Academy. Graduated in 1953 with a license as third mate.

Went to sea from graduation, 1953 to 1957.

Returned to school 1958 to 1959.

Q What school did you return to?

A The University of Utah.

1958 to 1959, the University of Utah.

The latter part of 1959 was a return to sea, and then, in 1961, I came to what was then the U.S. Navy Hydrographic Office.

Q All right.

Now, while you were going to sea between 1953 and 1957, in what capacities were you employed?

A Well, the capacities were from ordinary seaman, able seaman, third mate, second mate. Second mate up to 1957.

Q You served as second mate aboard vessels, then?

Q Did you sail as an ordinary seaman after you graduated?

A Yes.

Q How was that; when you had a third mate's license?

A The company with whom I was employed, an oil company, operated tankers, thought it best that its new officer employees, especially the younger ones, started out on deck.

Q Is that Chevron Oil?

A It is Chevron tankers now, I believe.

It was Standard Oil of California then.

Q Standard Oil of California?

A Yes.

Q And you sailed second mate with Standard Oil of California?

A Correct.

Q Did you have occasion, when you were sailing as second mate, to correct charts that were issued by the Hydrographic Office or the Coast and Geodetic Survey?

A The occasion was there, yes.

Q Did you also have occasion to correct sailing directions?

A Yes.

information that appeared to amend the sailing directions text, usually in terms of a word here or a sentence there, possibly, or even a paragraph; writing up these emendations and ordering them in such a way that they could be used by a printer and subsequently incorporated -- integral incorporation in the sailing directions text.

BY MR. SMITH:

Q Now, where did you get the information from that you used to make these changes?

A Well, the information -- from a practical standpoint -- was already in the office, if that is what you mean.

I received the information because it was in the office.

Q Well, when you say it was in the office, whereabouts in the office was it?

A Well, the physical location of the information were several; primarily documents, literary in nature, were kept in our records branch.

Documents in pictorial form, whether charts or photographs, were kept elsewhere.

Charts were kept in our chart archives.

Photographs were usually maintained -- were kept

outside the physical confines of the building in a repository designated by whoever had made the knowledge of the photographs known in the first place would have to have alerted us that the photographs existed, and we would contact these various repositories, libraries.

Q When you say "libraries," are they government libraries?

A It is almost exclusively.

In my work, exclusively government libraries.

Repositories would probably be an instant alternate or equal expression for libraries in this work.

This information, once it was gathered, was physically on my desk at the time of compiling the change.

Q Well, was there some central place where all of this information that you received with respect to a particular geographical location was lodged until you used it?

A No.

From a larger context, information would be grouped in our records branch in terms of their ordering system; not necessarily a geographic system.

Q What do you mean by "an ordering system"?

A The ordering system employed in the records branch

consisted primarily of three terms, an identifying file number, a route sheet number, and a receipt date.

These three identifying terms were the means by which they could locate the physical document in these files in files of documents that they have available.

Q Well, how would you know to refer to a particular number in order to locate a piece of information, or how did you know that information existed under that particular number?

We will put it that way.

A Right.

A document, no matter what its nature, when received by the office, 90 percent of the time -- not exclusively, but almost so -- was received in the Records Branch.

The Records Branch would collect up these documents for possibly a week or two, collect them and physically put them in some location.

After possibly a week or so of collecting these incoming documents the Records Branch would notify the various divisions about the office that we have documents to be examined; a preliminary examination.

The various divisions would send down a representative to look at these documents.

MR. SCHULMEISTERS: That is further down than 15 lines?

THE WITNESS: Yes.

BY MR. SMITH:

Q You have taken that out of the 15 lines and put that down further in Change 13?

A That is correct.

Q All right.

We will go back to the second sentence of the paragraph, Jette Delure, the main jette, extends about 1-1/2 miles northeastward from the western end of the city.

A Yes.

This has been changed, apparently; yes.

Q And the port extends about two miles northeastward?

A Yes.

Now, with regard to the difference between Change 12 and Change 13, with regard to breakwater length, two miles, it was decided to change 1-1/2 miles to 2 miles for the reason that 1-1/2 miles plotted only HO Chart 3777 falls within -- that is, the shore side of the breakwater head.

Obviously, it is better to put the end of the breakwater, in general terms, beyond the charted breakwater

head.

Two miles is beyond the breakwater head in general terms.

One and a half miles is landward of the breakwater head, in general terms.

Q What does the breakwater actually measure? If you know.

A I can't answer that question. I don't know.

Q But you did select two miles, rather than --

A One and a half miles.

Q Based on some measurement you made on the chart?

A Yes.

Well, the chart itself, when looking at the chart, it is easily --

MR. SCHULMEISTERS: Would it help you if you referred to a chart?

THE WITNESS: No. I don't think so.

I think we can visualize it.

MR. SMITH: Well, we have to put it on the record.

THE WITNESS: Right. We have to put it in verbal form.

When lookkng at the HO Chart 3777, it is not overly difficult to see that the 1-1/2 mile value appearing in

Change 12 for the length of the breakwater falls landward of the charted head of the breakwater, and simple prudence would demand, if you are speaking in general terms, to put the -- to describe the breakwater as extending further than charted, and 2 miles is closer to the end of the breakwater --

BY MR. SMITH:

Q This is the visible end of the breakwater you are talking about?

A No, the end of the submerged part of the breakwater, the extreme end of the breakwater.

Q So you measured the breakwater section also, when determining the length of the breakwater.

A When determining -- yes.

Q All right.

Now, you have eliminated, apparently, the next part of that sentence, which says:

"In 1959 Jette Delure was being extended."

A Yes. This is correct.

The reason for deleting a reference in Change 12 to something that happened in 1959 was that at the time of compiling Change 13 in 1970 the information was 11 years old and, once more, on the grounds of simple caution, it would seem, and it would seem, because of other information

available, in addition to the chart itself -- it would seem better to eliminate reference to a date which is no longer of any significance, and incorporate something that was of some significance.

Q Well, your investigation, then, indicated that apparently this extension was not progressing any longer.

Is that correct?

A Was not progressing any longer?

Q Yes.

A No.

The information that I had; if it led to the conclusion that in 1959 it was the same as in 1970, I probably would have changed 1959 to 1970, but the information that was available indicated that there was a progressive movement of this breakwater seaward.

Q But you eliminated a reference to that progress here, did you not, when you made Change 13.

You see, you have the part that I quoted here:

"In 1959 Jette Delure was being extended."

A Yes.

Q Now, you have just said that the information you had indicated that there was progress -- there was further progress in extending this breakwater.

use of the original book.

MR. SMITH: Yes.

We will use the original book right now.

BY MR. SMITH:

Q Would you refer to the paragraph that gives you the information with respect to the distance from the end of the visible breakwater to the end of the emergency extension?

A Before I can do that, it must be stated that the information in this particular handbook, from this source, had to be evaluated with other information.

The end result of that evaluation is the information that entered Publication 51 with Change 13.

Q And this was your job; to evaluate all of this information and to write Section 9-39 in accordance with the evaluation that you made?

A Correct.

Q All right.

Would you refer to the particular paragraph now in Exhibit 9 which gives you some information bearing on the distance from the end of the visible breakwater to the end of the submerged section of the breakwater, please?

A All right.

The paragraph begins in the French --

MR. SMITH: I want to get back to it.

THE WITNESS: All right.

BY MR. SMITH:

Q I asked you the question as to how that particular paragraph on Exhibit 9 helped you come to the conclusion that the distance from the end of the visible breakwater to the end of the submerged part of the jette was 400 yards.

A Yes.

Q I haven't gotten an answer to that yet.

A No.

We somehow were detoured onto depths.

Within that paragraph, there is the statement, in so many words, that the completed portion of the breakwater has been extended to PM 3182.

Q What does "PM 3182" mean?

A PM is the French for point metrique, which can be free translated as a meter mark, or it is comparable to a milestone.

It is a mark indicating a distance from a starting point of zero, so PM 3182 means that from some zero point --

Q That would be a bench mark, in surveying terms?

A A bench mark -- no.

Q All right.

It is not a bench mark.

MR. SCHULMEISTERS: Well, what is it?

THE WITNESS: There is a tremendous tendency to think that it is a bench mark, and it could be, but not in our context.

It is a means by which the French, to my knowledge, indicate distance from a zero reference point.

So PM 3182 means that at that particular point the breakwater was above water and completed 3,182 meters from a zero point.

MR. SCHULMEISTERS: Was it 3182 or 3150?

THE WITNESS: 3182 is the above water part of the breakwater complete.

Then the other figure is PM 3550, indicating that the end of the breakwater laid 3,550 meters from a reference point.

Now, with this information initially, it was a small matter to look at the chart and see that there was a discrepancy between the charted information and the information on this privately published unofficial document.

BY MR. SMITH:

Q You realized there was a discrepancy between the chart and the information that was published?

A Correct, yes.

Q Did you make a notation some place that there was a discrepancy?

A In effect, yes, because the text was changed in Change 13.

Q Before these changes are actually made and published, are they reviewed by anyone?

A Theoretically, yes.

Practically, reviewing varies.

Q Will you describe what you mean by that; say what you mean.

A Well, of course, it is our policy in the office to utilize personnel to their fullest extent, and one of the means of utilizing personnel to their fullest extent or fullest potential is to place confidence in their abilities.

This is a maneuver or tactic by management to obtain the maximum value from their employees.

Now, from time to time the various elements of management, in particular, the section head of a particular geographic area, will, through experience, come to realize that this person or that person can be allowed a free hand in his processing of information for a change.

Evidently, in my case, in 1970, I had been in

Sailing Directions for some nine years.

The section head allowed me freedom in processing the information to the point where it was sent out of my physical control and out of the section to be incorporated in a printed text.

Q Without being reviewed?

A In this instance there was no review.

Q Is the information that you developed circulated to anyone else within the DMAHC?

A Well, we have a contradiction in terms here.

If we are talking about DMAHC, we are not talking about the grounding, but if we are talking about the U.S. Naval Oceanographic Office, yes.

Do you want me to talk about DMAHC?

MR. SCHULMEISTERS: Why don't you repeat the question.

I don't think he is responding to your question.

MR. SMITH: Would you read back the question, please.

(The pending question, as recorded, was read by the Reporter.)

BY MR. SMITH:

Q Did you understand that question?

A It is a contradiction in terms.

MR. SMITH: All right.

Strike the question.

BY MR. SMITH:

Q Is the information that you developed in the course of making a change circulated to any other departments?

A Generally speaking, no, except in the final printed form, the change is sent to other departments that maintain a sailing directions file.

Q Now, you noted a discrepancy between the chart.

Now, which chart were you referring to?

A The discrepancy on the chart -- well, the chart that I was referring to is HO 3777, Revised, 1966.

Q You felt at that time that the information you had was more accurate than that that was on the chart.

Is that correct?

A No, because -- I can say "No," because the information that I had -- I presume that you mean is the information taken from the French Handbook?

Q Yes.

A The answer remains "No."

The information in the French Handbook is unofficial information.

Admittedly, it is very persuasive, but --

Q It was persuasive enough for you to make that change on the basis of what you read there.

Is that correct?

A No.

Q No?

A The information from the French Handbook differed considerably -- well, strike "considerably."

Differed from the information on the HO chart.

The information in the French Handbook is of an unofficial nature, and the HO chart is of an official nature.

Initially, with the indication that there is a difference, I began to look around for confirmation one way or another on the value of the information from the French Handbook.

Q And what did you find?

A I found route sheet Document 24-47 of 1969 which had information bearing on Casablanca, and on the breakwater in particular.

These two pieces of information might be termed "positive," in that they said something existed.

It is always hazardous, I presume, to argue from

ignorance, but there was nothing official at that time that I was aware of that argued in favor of what the French Handbook and the route sheet had stated.

MR. SMITH: I think we should have that marked as Plaintiff's Exhibit No. 10.

MR. SCHULMEISTERS: Yes.

MR. SMITH: Route sheet No. --

THE WITNESS: 2447, and the date it bears is derived from the receipt date of October 7, 1969.

BY MR. SMITH:

Q Now, is there a document attached to that?

A Well --

Q To the route sheet?

A Well, there are several documents attached to that.

Q Well, would you separate the route sheet from the other documents in that stack, and let's mark all of the documents and the route sheet that are connected to the route sheet.

A Now, at this time it would be wise to note that what -- identify what specific documents accompanied the route sheet would have to be determined by an examination of the covering sheet to the document, and compare what is stated

A No.

Q Did you have to plot them on there?

A Yes.

Q And from these plots you were able to then determine that the underwater extension was further out on the northeast end than was plotted on the HO chart.

Is that correct?

A Yes.

Initially -- initially there is no difficulty, with a pair of dividers, to step off on the chart a value of 3,550 yards.

You can very roughly see --

Q Meters.

A I am sorry. Meters.

You can very roughly see where it falls.

Now, a step towards being a little more accurate involves using the statement from Exhibit 11 in conjunction with the statements from Exhibit 9.

Q First of all, would you mark in Exhibit 11 the particular paragraph that you referred to. Would you mark that with an A, with a circle around it, please.

A This is the paragraph (indicating).

Q Would you just put a point to the first word in the

paragraph, label it A, and put a circle around the A.

All right.

Now, at the top of that page there is a red ink notation, page 1.

Is that correct?

A That is correct.

Q Is that your handwriting?

A That is my handwriting.

Q Was there anything else you referred to in your investigation into the distance or the length of the submerged part of the breakwater?

A Referred to -- I presume you mean referred to on the correction card used in Change 13.

Q No.

I was thinking in terms of source material that you used in making your investigation prior to coming to the conclusion that you should make this change.

A Well, as I hope I mentioned earlier, there was the source material in terms of positive information; that is, information that stated something, and then there was that information that should have been there, but it wasn't there, if what was stated positively had any validity, and I am referring specifically to a French corroboration --

official corroboration of what was evident or becoming evident in documents or in exhibits 9 and 11.

Q Could you find anything?

A Nothing.

Q So the basis of your change were these two documents, then, Exhibit 9, which is on page 987, the Port Guide; and No. 11, the one you were just looking at, which is labeled Port Des Casablanca.

Is that correct?

A No, exclusively, because I had to rely upon the absence of an official statement confirming what is indicated by the exhibits.

Q You had to rely on the absence?

A Yes.

Q I don't understand that.

A For example, hypothetically speaking, if you were -- if somebody were to say that your car is stolen, therefore you immediately go to your insurance agent and collect $2,000.

You very well couldn't go to your insurance agent and collect $2,000 because someone has said your car is stolen because you would have to have definite proof by an authority; namely, a police officer who has investigated

their file?

A That is correct.

Q Now, generally speaking, now, in the course of your investigation for making changes to sailing directions have you ever, in your experience, come across information where you thought it created or was in fact a danger to mariners?

A Yes.

Q What do you in a case like that?

A Well, the cases are many and varied, and each one has its individual characteristics, but possibly a typical example of a danger to navigation that was noted during the compilation of a change was noted on an HO chart.

I have forgotten the details, and there must be some precision here, because the HO chart was in a stage of development where it was either complete or almost complete, but had not yet been isssued to the public.

At that particular time doing my work on a change, I noted that there was a sounding that made absolutely no sense in its location on the chart, and I brought it to the attention of the responsible authorities, and I forgot whether it is Chart Maintenance or Chart Construction branches, and the chart -- once this matter was brought to their

attention and they saw it was obviously wrong, it was corrected, and the chart was issued in its correct form.

Q Aside from what is obviously an error in such as a sounding, where you have developed some new information that appears to change the accuracy of a chart, what do you do in a situation like that?

A Well, it would depend upon the reliability of the information that appears to create some sort of an inconsistency betwpen the chart and the sailing directions.

I am trying to think right now of a situation with the reliability of the difference, or the information that created the difference was of such a degree that we had to consult with other authorities, either inside the office, or outside, and I can't recall just who, offhand.

It is a very rare event.

Q When you found this inconsistency in this chart in your investigation as to the length of the jetty, did you consult any of the authorities on that?

A No.

Q Did you go to the chart construction or the chart maintenance section and look at their charts?

A No.

Would you like an amplification of no --

Q Well, perhaps I had better ask you some more questions.

There was no question in your mind that there was an inconsistency between the information you had developed through these private French sources and the HO 3777.

Is that correct?

A Let me see.

As a negative question, if I understand you right, was I aware of the inconsistency?

Q You have already testified that you were.

A I am aware of the inconsistency, yes.

MR. SMITH: Would you read my question back again, please.

(The last question, as recorded, was read by the Reporter.)

THE WITNESS: There was no --

MR. SMITH: Strike the question.

THE WITNESS: There was no inconsistency.

BY MR. SMITH:

Q After you had completed your investigation, you formed an opinion about the length of the underwater portion of the jette.

Is that correct?

A After the completion of my investigation, yes, I had formed an opinion.

Q And that opinion was that it extended 400 yards from the end of the visible section or above-water section of the jette.

Is that correct?

A That was my opinion.

Q And you recorded that opinion in Section 9 -- 39 by revising that section?

A Yes.

However, with the qualification that I did not put in the visible head of the breakwater.

Q Yes.

You didn't use those words, but is that not where you measured it from?

A In my investigations, yes.

Q Did you actually step off that distance on the chart on HO 3777 with a pair of dividers?

A Yes.

Q Did that distance go beyond the area which is marked by a dotted line around the end of the underwater section of the jette?

A Yes.

(Discussion off the record.)

MR. SMITH: On the record.

The witness is referring to Plaintiff's Exhibit 2.

MR. SCHULMEISTERS: Which is a copy, and also has some markings on it.

BY MR. SMITH:

Q Well, can you tell from this chart approximately what the depth is of the end of the jette -- the submerged section of the jette?

A Well, provided that nothing has been changed, I would have to assume, since there are no soundings in the way of breakwater extension; that it would probably have to be on the order of 9 fathoms, and possibly looks like 9-1/4. Could very well be.

9-1/4 fathoms is the charted depth off the breakwater.

Q That is more than 54 feet, is it not?

A Nine times 6 is 54, and 2, less -- yes, it is more than 54 feet.

Q If that underwater extension of the jette does in fact extend 400 yards from the end of the visible jette, it extends out further than is shown on that chart.

Is that correct?

A No.

Your statement is incorrect, to my knowledge. It is incorrect based upon the word "visible head of the breakwater."

I don't know, and I don't think it can be determined from the material that was available at the time of the correction precisely where the visible head of the breakwater is.

We have the charted head of the breakwater, according to two different versions, and two charted versions and a literary version.

From HO 3777, which is presumably the chart with which the ship is navigating, the visible head should correspond to the charted head.

Q Well, how did you arrive at this 400 yards if you didn't use the visible head, then?

A The visible head was of no significance to me.

What was of significance was the -- either the charted -- is visible in terms of what is depicted on the chart, and what can be reconstructed from the -- or supposed from the French Handbook.

The visible head could, because of lapse of time, and this chart is 1966, and the accident took place in 1970 --

1972, and I was compiling in 1970, and the grounding took place in 1972, the visible head could have moved, as I see it.

And in 1970 the chart I had in front of me was approximately four years old, and the visible head -- we here have to assume that the visible head corresponds to the charted head -- who knows -- so I can't answer your question in terms of a visible head.

What it was in 1970, or what it was in 1972, where the head was in 1966 -- the visible head -- the actual one that you could see is a matter that I couldn't begin to resolve.

Q Well, my understanding of your testimony was that using these various reference points that were given in the two private French references --

MR. SCHULMEISTERS: Objection.

There has been no testimony that Exhibit 11 is a private source.

MR. SMITH: I thought that was your testimony. If it isn't, I am sorry.

MR. SCHULMEISTERS: No.

MR. SMITH: I understood that this was a private source; Exhibit 11.

Is it?

THE WITNESS: No.

To my knowledge, looking at the cover sheet, and being familiar with the document -- the accompanying information to this particular object, Exhibit 11, enclosed with Route Sheet 2447, indicates that Exhibit 11 is an official document.

BY MR. SMITH:

Q From what source?

A The source, as I assume in the translation, is the Office of the Port Director of the Port of Casablanca. His office.

Q All right.

Now, getting back to the question, you used Exhibits 9 and 11 to come to the conclusion that the submerged part of the breakwater was 400 yards.

A Incorrect.

It led to the conclusion.

Q All right.

Led to the conclusion that the submerged section of the jetty was 400 yards long.

Is that correct?

A Yes.

Q I thought I understood your testimony; that you had established where the end of the visible jette was, by various references, and that you had also established the end of the underwater extension.

I guess that understanding is not correct.

A Well, I don't want to give the wrong impression.

It had been my intention in the testimony to indicate the charted head or the head of the emerged part of the breakwater as determined by either the chart or these literary sources.

My intention, at not time, was to equate that particular emerged head as the visible head.

The actual head is unknown to me.

It is unknown to me to this day.

Q But with respect to the particular chart, HO 3777 --

A Yes.

Q -- were you able to check that head from the references you had; the head of the jette -- the visible head of the jette?

A Well, the charted head, and that is the emerged charted head, depicted on HO Chart 3777, cannot be checked with Exhibit 9.

A That is correct.

Q Would you do that in red ink, please.

Let the record show that Mr. Anderson has blocked in the area from the charted end of the pier to the point PM 3182.

MR. SCHULMEISTERS: Based on Exhibit 9.

The computations --

MR. SMITH: I am just describing what he did physically on the chart; not where he got the information. That is already in the record.

Off the record.

(Discussion off the record.)

MR. SMITH: On the record.

BY MR. SMITH:

Q Now, would you plot PM 3550; the figure that you got out of Exhibit 9, and that represents 2,137 yards, as the difference between PM 1595 and PM 3550.

A Yes.

Q Is that correct?

A That is correct.

Q Now, would you mark that point, please.

A Yes.

Q Now, we will draw a line up to the right on that,

and mark that PM 3550, and that position, Mr. Anderson, represents what physically, according to your calculation?

A What physically?

Q Yes.

MR. SCHULMEISTERS: And based on what information.

MR. SMITH: Based on the information from the testimony given here.

MR. SCHULMEISTERS: From Exhibit 9, right.

THE WITNESS: Well, it represents nothing physically to me.

It represents a value -- a literary value that has been translated into pictorial terms, if that is the expression, so that the information from Exhibit 9 can be placed on the chart.

MR. SMITH: Yes.

THE WITNESS: Nothing more.

There is no physical connotation to that.

BY MR. SMITH:

Q Would you measure the distance between PM 3182 and PM 3550, please.

A Yes.

The distance is a little over 400 yards.

Q You say a little over.

How much over?

A Oh, I would say 405 yards, at the most, whatever it is, as we have worked it there, around 405. It is 405 yards.

Q Now, is this not what you did in arriving at the basis for making a change in the section 9-39 of HO 51?

A This is what was done, but not arriving at a conclusion or a basis or a means for arriving at a conclusion. This does not represent the conclusion.

Q The conclusion you reached was that there was 400 yards of the jette submerged.

Is that correct?

A That is correct.

Q And the way you reached that conclusion was to measure the distance between PM 3182 and PM 3550.

A That is incorrect.

Q What did you do?

A Based on what we have -- we have just plotted on the chart an inconsistency from a standpoint of -- well, an inconsistency literally leaps to the eye, and it can best be shown by having some straight line -- just to show that the -- that a navigation light ashore, which has a name, and it is not named on the chart, but this Roches-Norise --

Q Can you spell it, and I will write it in.

A R-o-c-h-e-s-N-o-r-i-s-e.

This light, the Roches Norise, is a navigation aid; its principal significance being that it has -- it is a sector light, one sector of which is red, and the red sector is on the chart.

Q Would you just take this ruler and go over the red sector which is on the chart, please.

Just a dotted section.

MR. SCHULMEISTERS: You are just lining in double a sector that is already on the chart.

BY MR. SMITH:

Q On the original chart that would be in red, would it not?

A No.

What you see here can be classified as an original chart, in that the information is all there, but the color has been changed.

MR. SCHULMEISTERS: This is a photocopy.

THE WITNESS: On HO charts we don't have colored light sectors.

We will have a circle around the light, and different colored bands.

MR. SMITH: We are working on Plaintiff's Exhibit 2.

All of the marks that have been put on the chart by Mr. Anderson have been on Plaintiff's Exhibit 2, and --

MR. SCHULMEISTERS: A photocopy.

MR. SMITH: Well, the chart speaks for itself; whatever it is, whatever method was used to copy it.

The last thing that Mr. Anderson did, at my request, was to superimpose a red line over the dotted line that he was referring to, in pointing out an inconsistency in the chart.

Now, will you continue as to what this inconsistency is that leaped out at you, please.

THE WITNESS: The inconsistency didn't appear on the chart.

The inconsistency is that assuming the breakwater section, in terms that we have used from Exhibit 9, really extends as far as it is, when compared with this light.

Now, at that point we got sidetracked. The light is a navigation aid. It is a sector light, and one sector of this light is red, and the red sector is danger; that is to say, you do not navigate in that sector.

Now, extending the limit of the red danger sector,

until it intersects the extension of the breakwater, shows that the information from Exhibit 9; that is to say, the submerged part of the breakwater extends out of the red danger sector of the light into the presumably safe sector of the light.

Now, at this particular moment the earlier reference to information that was absent, but should have been here, if the information from Exhibit 9 were true; if this information were here, then we would go ahead and believe what is in Exhibit 9; that is to say, something indicating that the limit of the danger sector had been altered to include the extension of the breakwater.

This information was not at hand.

BY MR. SMITH:

Q Did you subsequently get that information?

A What do you mean by "subsequently"?

Q Subsequent to the time you made this investigation.

A Yes.

Q When did you receive it?

A It is in the form of a French Notice to Mariners, dated 1972, stating that this arc has now been changed, but in 1970 this Notice to Mariners, of course, was not in existence.

In 1970, while compiling the change, on February 3 of 1970, I was looking at a source of information dated 1969; and say there, as a year lapse, and it could have been less, but at the time of the publication date of Exhibit 9, 1969, in the time that I was working on Change 13 in February of 1970 there should have been -- it is reasonable to expect that an official statement, routed through the French Hydrographic Service in French Notice to Mariners, should have been available, explaining because of breakwater construction, the danger of this red sector has been altered.

Subsequently it has been altered, and this is considerably later, at the time this information was available, and so I had to assume what seemed reasonable; that is to say, that any information from the French not being available in a matter of changing the light sector, had to assume that this value for the extended part of the breakwater, as determined from Exhibit 9, was excessive.

It was unreliable to a certain extent.

Q But it was reliable enough for you to change the sailing directions --

A Yes. Correct.

Q -- to read that the underwater section was 400 yards

Q Yes.

A -- did I consult anybody about --

Q What you found on the chart in Exhibit 9 and Exhibit 11.

A Is there any time limit, immediately after, or just before this --

Q Anytime before the grounding.

A Oh, no. No.

This was a routine matter, handled in a routine fashion, and which is to say, in practical terms, my decision was final.

Q Is it your practice, when you complete this, to make up a note of explanation and forward it to anyone else as to why this change was made?

A Well, there are several parts to the question.

It is my practice, when dealing with matters that could be subject to some question, or there was something that had to be resolved by means that were not perfectly obvious, to make a note on the back of a correction card.

In this particular case I don't think there is a note on the back of the correction card referring to the breakwater in Change 13, for the reason that the type of investigation that has been brought out in this testimony

is rather routine.

There is nothing extraordinary about it, so there would be no outstanding pressing reason why I would make any comment on the back of a card.

Subsequently, there was no reason for bringing this matter to the attention of anyone, because of its very rather routine nature.

Q Well, as a mariner, would you want to use a chart that had an inconsistency like this in it?

A We have -- and I hope I am groping for the right words -- a fictionalized inconsistency on this chart.

The fictionalized inconsistency is based upon unofficial information.

The unofficial information is based upon the possibility of a submerged part of a breakwater extending excessively, and if it were all true, yes, one would have to admit, this is a danger to navigation.

Q But isn't there some evidence here that that is the case; that it does extend out?

A Oh, yes.

There is some evidence that the breakwater extends beyond that charted on HO 3777.

Q And that evidence is now further supported by the

MR. SMITH: I don't doubt any of that, Mr. Anderson.

It is just a matter of having this in the record to show what did happen.

MR. SCHULMEISTERS: As far as admissibility of that fact goes.

The objections are preserved.

BY MR. SMITH:

Q At the time you looked at this chart, at the time you investigated it --

MR. SCHULMEISTERS: This goes back to 1970?

MR. SMITH: Yes, 1970.

BY MR. SMITH:

Q When you were making a change, you said this sector left out was an inconsistency?

A Yes.

MR. SMITH: We will let it go at that.

THE WITNESS: It is an inconsistency with relation to Exhibit 9.

One of them has to be changed and, of course, one of them did change.

BY MR. SMITH:

Q Is there a practice in your office, when you

letter, or even in a Notice to Mariners, and send this information to us through channels again, presumably naval channels.

If it went through the State Department it would eventually have gone to the Moroccan Government, and whoever is in charge in Morocco, presumably the port director in Casablanca, would receive the letter and answer it and send it back through the State Department channels.

Q If a Notice to Mariners was put out, by the French or the Moroccan Government, or both, you would get those automatically, without going through these rather circuitous channels.

Is that correct?

A It is partially right.

Morocco, to my knowledge, has no facilities or Notice to Mariners, or anything elaborate along that line, no charts, no information on the harbor, other than publicity brochures.

Of course, the Notice to Mariners are sent to us on a reciprocal basis, reciprocal agreement.

Q On the completed change, is that circulated to the other divisions or sections?

A Yes.

(Handing to the witness.)

THE WITNESS: The document that I have is a publication correction card, identified as 219-A, prepared for Change 13, on February 3, 1970.

BY MR. SMITH:

Q Is that when you made the change?

A It is hard to say "made a change."

February 3, 1970, is the date on which I wrote this particular card.

Q Did you write that particular card before you made the change in the text in the document itself?

A Yes.

This is a manuscript form for the text that is constructed in a rather complicated process, but what you see there is the literal test in the printed version.

MR. SMITH: Off the record.

(Discussion off the record.)

(Brief recess.)

MR. SMITH: On the record.

BY MR. SMITH:

Q Where did you get the 400 yards that you put into Change 13, Mr. Anderson?

A The 400 yards that entered into the sailing

directions text of Change 13 was based upon information gotten from Exhibit 9, Exhibit 11, HO Chart 3777, the Roches-Norise light marked on the chart, and the evaluation of all that information, and an estimation of what would be prudent to introduce into the text.

This oddity of the submerged part of the breakwater, extending beyond the danger limit of the light, suggested to me that the breakwater did not in fact extend to PM 3550, but there is evidence that it extended beyond the head of the breakwater as depicted on HO Chart 3777.

Q When you say "the head of the breakwater," you mean the underwater section?

A Yes. The extreme head.

So what I did was to assume that it would be prudent to extend the breakwater from the head of the emerged part to the head of the submerged part an amount that would not go beyond the danger sector of the light, and I indicate on the chart, and this was what was done at the time of compilation; something like this that we did.

Q And you measured that between that point and the visible head of the jette, as charted.

Is that correct?

You can ask what the practice is and let him answer it, but you can't ask him a question and suggest the answer.

BY MR. SCHULMEISTERS:

Q Do you know of an existing practice in the approach to new editions, as opposed to changes of sailing directions?

A Yes.

Q What you have previously described; is that the practice?

A That is the practice, yes.

Q Is that a usual practice?

MR. SMITH: Objection.

THE WITNESS: In this office, and in other offices, too.

BY MR. SCHULMEISTERS:

Q As far as you know?

A As far as I know, yes.

Q All right.

You have testified about, and Mr. Smith asked you to mark PM 1595 on a chart, and then two other PM positions.

They came from Exhibit 9.

Is that correct?

A Yes, that is correct.

Although PM 1595 is an inference. It didn't really come from Exhibit 9. It is a conclusion.

Q Oh, it did not.

Where did it come from, and how did you arrive at it?

A Well, to go through the process again, Exhibit 9 states that the breakwater extends northeast to PM 800 and curves 200 yards to the point where it extends east-northeast.

Route Sheet 2447 of 1969 states:

"The oil berth lies on the breakwater at PM 2000."

With these values and the chart we can harmonize literary material with charted features; such that we can establish physically on an HO Chart 3777 the position PM 2000.

Having established that position, it is but a matter of stepping off on the chart with a pair of dividers the distance between the angle of the spur breakwater at 2000, subtracting this distance from PM 2000, and coming up with PM 1595.

Q I see.

Now, where did that PM 2000 come from?

Which was the --

A From Exhibit No. 11.

Q Exhibit No. 11.

Did you ever see any publication which showed where PM zero is?

A No.

Q In your calculations, did the various PM locations from the various PM numbers ever check out?

A No.

This was one of the conclusions that we entered into the sailing directions.

We had the literary evidence; that is to say, a printed statement saying something was someplace, and we had the charted evidence and we had to merge these two forms of information to come up with a single charted version, but none of this information had anything to do with where the zero reference laid.

Q Is there any notation on any chart that you have ever seen where any PM position is described specifically on any chart?

A No.

Q This oil dock that you are referring to; does that appear on the Exhibit 2 for identification?

PM 1000 at one end of the curve, will harmonize with the PM 800 at the other end of the curve, and that PM zero at the end of the breakwater, and, of course, that the PM 2000 has to be within a reasonable distance of the oil dock.

Q What I am driving at is, the PM's are actually not accurate within a foot or a yard?

A Oh, no. No.

Q There is some variance in it.

A There has to be, just by the nature of laying down the distances.

Q And the matter of the variance was taken into consideration by you when you were writing that change?

A Yes, insofar as what entered into the sailing directions text is intended merely as a generalization.

Q Right.

A And any computation or plotting on the chart would necessarily be more accurate than a generalization, but it wouldn't be precise.

There was no intention that it should be precise and accurate right down to the say, five meters, or whatever --

Q Exhibit 11, I believe you testified you consider that an official publication.

Is that correct?

A In my opinion, it is an official publication.

Q And where did that come from?

A It presumably was a part of Work Sheet 2447 of 1969.

Q Does it show on its face what nation it came from?

A Well, yes.

It has some printed information on it, and we have to assume that it actually came from Morocco.

I would doubt that it came from China.

Things like that happen, though, of course.

Q And did Exhibit 11 contain information showing an extension of the breakwater as far as Exhibit 9?

A I don't quite understand --

Q The information that you have in Exhibit 11; did that show the breakwater as far as information you derived from Exhibit 9?

A Well, I have only seen this document, one, at the time of compiling Change 13.

Q Yes.

A And just for a few moments before this deposition, a day or so ago, so my memory is going to play tricks on me, but I have to assume, and because I have marked up this

The attachments are the ones that contain information, are they not?

A Correct.

Q Is there a special meaning to the term "primary source"?

A Yes.

Q What is it?

A Possibly the best description would be an example.

Exhibit 9 is a document having information ostensibly compiled by a French concern.

Exhibit 11 has information that has been compiled by, evidently, an official Moroccan source.

The information that relates to a particular area that has been assembled and gotten together, and has been recognized by local authorities is primary source material.

By extension, we can say if the Moroccan authorities put a note in Exhibit 9 saying, "This is official for the Port of Casablanca," we accept it as prime source material.

Q Would you say that Exhibit 9 is a prime source?

A No, definitely not.

It is not even a prime source material for France.

Q All right.

Now, Mr. Smith asked you whether or not you discussed your determination of the extension of the 400 yards mentioned in the change 13 with anyone, and I believe the answer was you did not.

Now, why did you not discuss it with anyone?

A Well, if that was my answer, and if it was that categorical, I did not; that is to say, within the immediate time frame of 1970.

Of course, subsequently, yes.

Q Well, I am not talking about 1972.

A Well, after and during the compilation of Change 13, there was no discussion about the breakwater length with anyone.

Q Why not?

A The reason that -- at the time I felt there was no reason to discuss this or make it known to anyone else for the compilation of material for incorporation within the sailing directions text was -- well, there were several reasons, and I think Mr. Smith was concerned about, well, if you had this information, why didn't you discuss this with the chart people and Notice to Mariners people?

This was not done because the information, as it finally appeared in the sailing directions text, is a

compromise.

It is a guess -- an educated guess, I hope -- based upon an evaluation of unofficial information, to some extent.

The information, as it entered into the sailing directions, was clear -- presumably clear -- and to bring it to the attention of other people in the office seemed to me as unnecessary.

Another reason was that in describing in general terms the breakwater as extending two miles pretty well, I would think, indicates that the area between Bouy CA-5 and the head of the emerged breakwater was dangerous; I mean --

Another reason would be that if the breakwater, in general terms, extends out to 2 miles, of what significance is it to say that within this 2 miles this particular portion is more dangerous than another portion; that is to say, the amount by which the 400 yards extends beyond -- the 400 yards of the submerged part of the breakwater, as incorporated in the sailing directions text extended beyond the charted portion of the submerged part of the breakwater.

This difference was, I think, if memory serves

me, an amount of 400 minus 260 -- say, 140 yards, but what, at the time of compiling Change 13, 125 yards, 130 yards, appeared to me to be of no importance, when all the area was dangerous.

Another reason for not thinking that this was of any real significance, such as you have to sit down and talk about it and/or institute proceedings for a wider or more quick dissemination of information was that we here in the Oceanographic Office, we have to write as though those who are going to use our products are going to practice seamanship of an acceptable standard, and we can't write for the exceptional cases.

We are limited because of time, and the number of people we have, budgetary considerations, and probably some other reasons, to draw up a manuscript, specifically in sailing directions, that will be acceptable from a general standpoint of good seamanship, and in this context, and maybe this is possibly the fourth reason for not having the 400 yards broadcast throughout the world by all sorts of means that the common practice of seamship is one approaching the harbor --

MR. SMITH: Objection.

He is testifying beyond his ability to explain.

MR. SCHULMEISTERS: The objection is noted.

Please continue.

He is a licensed mariner, and has been in this area quite some time.

Please continue.

THE WITNESS: Because we have to write for this general understanding of good seamanship, we expect mariners to realize that the system of bouyage is such that entering ships would pass out to the east --

BY MR. SCHULMEISTERS:

Q To the east of what?

A Of Bouy CA-5.

Q Yes.

A And never would pass to the west which, in so many words, means that if we had to take into consideration the possibility that somebody, for some urgent necessity, had to pass to the west of the bouy, we would be constrained to say, in so many words, mariners are advised not to run into the breakwater.

Now, this is something we don't do.

This situation is relatively common, where you have an end of a breakwater that is being extended, marked by a bouy, and it is seldom, if ever, that we feel it is

necessary to say, "Mariner, do not run your ship up on the breakwater between the bouy and the breakwater."

So I hope those several reasons are the reasons why I didn't feel it was really necessary to take my conclusions and parade them through various parts of the office.

Q This chart, HO 3777, dated May 23, 1966, Plaintiff's Exhibit 2 for identification, shows -- excuse me -- show that the breakwater is being extended.

Does the chart?

A The chart shows -- well, from evidence on the chart; that is, say, the legend "Work in progress," and the dotted lines commonly indicate that the breakwater is being extended.

Q So there is such a notation, and what is in progress on the chart?

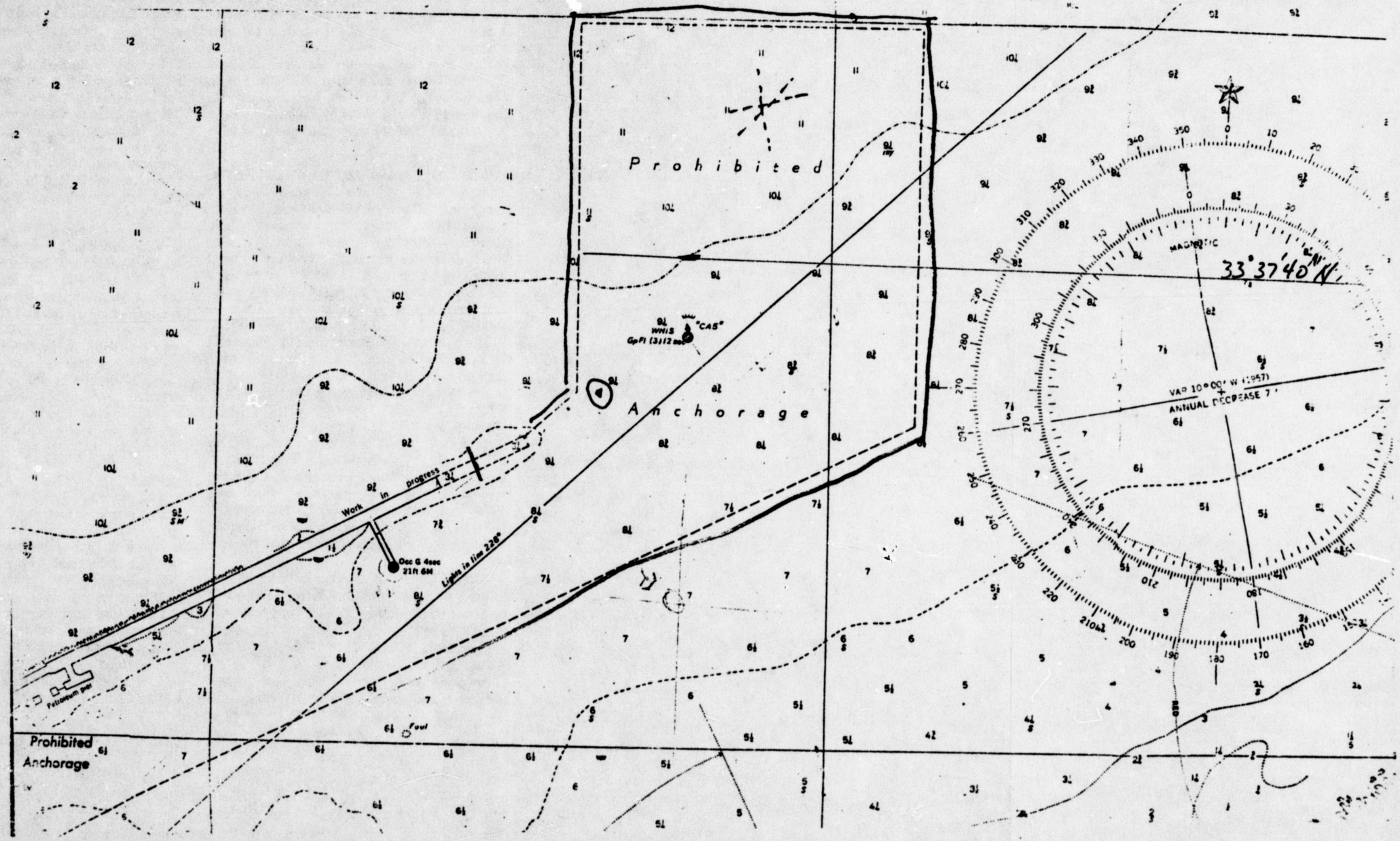
A Work is in progress on the chart, yes.

Q In writing your sailing directions, or -- let me rephrase that.

In compiling Change 13 to the sailing directions, HO 51, do you recall any reference to pilotage in Change 13?

A I don't understand the question.

Plaintiff's Exhibit 111



distance of 6,616 yards is located to the eastward of Casablanca. The eastern markers consist of a black disc on a white house, about midway between Fedala and Casablanca, in range with a beacon about 2½ miles southsoutheastward. The western markers are a water tower, about 1 mile eastward of Table d'Aukasha; in range with Sidi Mumen, a tomb about 2¾ miles south-southeastward. The course is maintained by keeping the light on Point El Hank bearing 236° ahead or 056° astern.

9–39 THE HARBOR OF CASABLANCA, situated about midway between Point El Hank and Table d'Aukasha, 4½ miles to the eastward, is formed by two breakwaters, Delure Jetty, which extends about 1¼ miles in a northeasterly direction, and Transversal Jetty, which extends about ¾ miles in a north-northwesterly direction. The entrance, between the head of the latter and an arm of Delure Jetty, is 250 yards wide. The harbor is divided by Commerce Mole into Delpit and Delande Basins, and has depths of 3 to 7 fathoms. At the head of the port is a small inner harbor with reported depths of 7 to feet.

Landmarks.—The most conspicuous objects in this vicinity are Table d'Aukasha and Black Rock, 1¼ miles southwestward of it; the chimneys of the electrical works and the cement works, 1,200 yards eastward and 1,300 yards southeastward, respectively, from Black Rock; the granary, a yellow stone building on Commerce Mole; and the radio masts of the radio stations.

9–40 Lights.—Black Rock Light is exhibited from a cylindrical tower, 49 feet in height, on the shore ¼ miles southeastward of Black Rock.

A light is exhibited on each side of the entrance to the harbor.

Entrance range lights have been established at Casablanca. The front range light has been established on the outer portion of Jetée Transversale, 104 feet high, at Tour Nord. The rear range light is located 840 yards 228° from the front light on the grain elevator at Mole due Commerce. The light is shown from an elevation of 154 feet.

Buoys.—A lighted whistle buoy has been established off the new construction works for the Jetée Delure. It is dangerous to pass between the new extension and the buoy.

A sunken wreck, marked by a light buoy, close southward of the head of the Jetée Transversale, complicates berthing at the phosphate berth and blocks the oil-discharging berth, forcing tankers to use a submerged pipe line outside.

Wrecks—Shoals.—There are numerous wrecks and shoals on the approach to and within Casablanca Harbor.

9–41 Anchorage.—Outside the harbor the bottom is nearly everywhere of sand and rock; the holding ground is poor, but a berth with good holding ground of sand and mud may be found in 13 fathoms northward of the elbow of Delure Jetty. The anchorage is partly sheltered by Point El Hank promontory from winds between south and west, but a westerly swell sets in. A westerly swell may set in without any warning, especially from October to April; the anchorage is dangerous during heavy westerly or northwesterly swells.

The harbor has numerous anchorage berths, some at mooring buoys in depths up to 46 feet. It is quite secure, but a long swell enters and in bad weather a vessel should be ready to leave at short notice. When mooring with the stern to the jetty, drop the anchor so as to allow a good scope of cable.

Prohibited anchorage.—In the immediate approach to the harbor is an area of prohibited anchorage indicated by dashed lines on the chart.

Anchorage is prohibited in an area westward and northwestward of Point El Hank,

due to the presence of submarine cables. This area is indicated by dashed lines on the chart.

Anchorage is also prohibited, due to the existence of cables, in an area 110 yards on either side of a line connecting the head of Jetée Transversale and the head of the spur of Jetée Delure.

Beacons.—At each shore end of the limits of the prohibited area off Point El Hank, stands a pyramidal beacon, 33 feet in height.

9–42 General information.—Casablanca Harbor is affected during bad weather by swells and surging seas, created by high winds and storms that may last 5 to 7 days. At such times mooring lines have been known to part, and vessels may be forced to stand out to sea. Fogs are prevalent during spring months, commencing in April. Shipping activities practically cease for the duration of these fogs. The tides dominate the set of the currents, and a knowledge of them is especially important to navigation outside the harbor.

Tides.—The mean high-water interval at Casablanca is 1h. 27m.; the mean range is 7.1 feet and the spring range 9.5 feet.

9–43 Pilotage is compulsory within an area limited as follows: on the east by the meridian of Black Rock Light; on the west by the meridian of the clock tower; and on the north by the parallel 2,187 yards north of Black Rock Light.

Should bad weather and the state of the sea prevent the pilot from coming out, vessels may enter the port at their own risk and the pilot will await them in the shelter of Delure Jetty. At night vessels should not attempt to enter without a pilot as it is dangerous.

The pilot station is located at the head of the Jetée Transversale.

9–44 Signals.—A signal station is located on the granary on Commerce Mole.

A red flag indicates that the pilot cannot come out.

Vessels can communicate by day or night by the International Code.

The pilot signal is three long blasts on the whistle.

Storm signals.—Storm signals are shown from the signal station. By day, a black ball over a black cone; and at night three green lights shown vertically indicate that a gale (force 5) is probable within the next 24 hours. By day, a black ball over two black cones, points down; and at night, a red light between two green lights, shown vertically, indicate that a gale (force 6) is probable within the next 24 hours.

Lifesaving.—A motor lifeboat and a line-throwing apparatus are maintained at the port.

Directions.—Vessels approaching from the westward should give Point El Hank a berth of 1½ miles. Sidi Mumen in range with the northern side of Black Rock, bearing 117°, leads northward of the point in a least depth of 9 fathoms.

9–45 CASABLANCA (DAR EL BEIDA) (*33°36′ N., 7°37′ W., H. O. Chart 3777*), occupying the land near the harbor, is the seat of a district administrator and the residence of the officers commanding the military and naval forces in Morocco. It is (1949) a flourishing city of 569,500 inhabitants, of which 169,000 are Europeans.

There is a United States consulate at Casablanca.

Quays.—There are about 11,230 feet of quayage, of which the greater part can accommodate vessels of 30 feet draft. Mole du Commerce has depths alongside of 30 feet. Quai Delpit, the eastern side of the mole, is 2,740 feet long; and Quai Delande, the western side, is 1,880 feet long. Jetée Transversale is 3,050 feet long with a depth alongside of 30 feet. Phosphates are handled at the outer end, and coal at the inner berths. The fueling pier, which extends along the shore from the root of Jetée Transversale, has 1,180 feet of berthing space and depths alongside of 19½ to 29½ feet. Jetée Delure has also 1,180 feet of space and a depth of 30 feet alongside. A smaller quay extends across the southern end of Bassin Delpit, between the inner ends of Delpit Pier and Jetée Transversale.

Construction work is underway on the projected pier (Mole Delpit), between Jetée Transversale and Mole du Commerce. Other major improvements are also under construction in this port.

The quays have railroad connections and are equipped with numerous cranes of 1½ to 20 tons capacity. There are also heavy-lift cranes, one of

Plaintiff's Exhibit 115

Q Please state your name.

A Calvin Charles Hunziker.

Q And your home address?

A 26136 20th Avenue South, Kent, Washington.

Q By whom are you presently employed?

A Keystone Shipping Company.

Q In what capacity?

A Second officer.

Q On what ship?

A The NORTHFIELD.

Q Where is that ship now?

A Linden, New Jersey.

Q Will the ship be leaving Linden, New Jersey?

A It will be leaving for Tenneco at Port Newark at 1:00 o'clock, 1300.

Q And thereafter where will she go?

A Be sailing for Norfolk Shipyard, Norfolk, Virginia.

Q Will you be going with the ship?

A Yes, I will.

Q By whom were you employed on February 26, 1972?

A I was employed by Ogden Marine Shipping Company.

Q Were you on a vessel?

A Yes, I was on the SS POTOMAC.

Q In what capacity?

A Third officer.

Q Were you on board the vessel on February 26th when she was entering the harbor at Casablanca, Morocco?

A Yes, I was.

Q Were you on duty at any time on February 26, 1972? I'm talking about the afternoon.

A Yes, I was on the 12 to 4 watch.

Q When did you go on watch?

A At 12 noon--well, 11:50.

Q And what were your duties on board that vessel?

A Watch officer, that includes assisting with the navigation and safety of the vessel.

Q Did you say what mate you were on board?

A Third mate.

Q When you went on board at 12:00 o'clock, or shortly before, who was on the bridge?

A The 8 to 12 third mate. I don't recall his name right now.

Q Anybody else?

A Quartermaster, able-bodied seaman West.

Q Let me show you a document that was previously marked Defendant's Exhibit E for identification, and see if that refreshes your recollection.

A Yes. The captain's name was Hansen.

Q Do you recognize Exhibit E?

A Yes, I do. It's the bridge logbook of the SS POTOMAC.

Q Dealing with what period of time?

A Saturday, 26 February, 1972.

Q That's that one page, but the whole book.

A February 1972.

Q Did there come a time when Captain Hansen came on the bridge?

A Yes, he was on the bridge between noon and 12:30 for a short period of time. He had advised me also of the radio navigational aids that would be coming up, or that we could use for navigation into the Port of Casablanca. And various short periods after that he came on the bridge when we made land fall, approximately 1:30. And then when we made arrival at 1530 he came on the bridge and stayed on the bridge.

Q Prior to February 26, 1972 had you ever been in the harbor of Casablanca?

A No, I had not.

A No, I had not.

Q This was your first time?

A This was my first time.

Q Did you do any preparation in connection with the vessel's approach toward and entering the harbor of Casablanca?

A You mean personal or as far as the entire ship was concerned?

Q First let me ask you personally.

A Two or three days before arrival I did read over the sailing directions. And I had looked at the harbor charts at various times.

Q Harbor charts?

A Harbor chart--at various times up to arrival of the vessel.

Q Where were the sailing directions?

A Sailing directions were at one time--at one point on the bridge and after that they were in the master's office for most of the period.

Q When were they on the bridge?

A I had them on the bridge two to three days before arrival.

Q And after that they were where?

A They were in the master's office for most of

the time and they were again on the bridge the day of arrival, I believe.

Q Let me show you a document that has previously been marked as defendant's Exhibit H for identification.

Do you recognize it?

A Yes, I do. It's the sailing directions for the West Coast of North Africa, Spain, Portugal.

Q Is this the volume thatwas on board the POTOMAC?

A To the best of my knowledge, yes.

Q Let me show you Defendant's Exhibit D, as in David, for identification.

Do you recognize that?

A Yes, it appears to be the harbor chart that we used in going into Casablanca.

MR. SCHULMEISTERS: For the record, that is Chart HO3777.

MR. SMITH: There is also an NO number on that. Would you read that into the record?

MR. SCHULMEISTERS: And also NO51222.

Q Is this Exhibit D the chart that you referred to when you previously said you reviewed the harbor chart?

A Yes, this is the chart that I referred to.

Q On February 26th, when the vessel was nearing Casablanca, when you went on watch, were any other charts out on the chart table?

A Yes. There was the chart--approach charts with Navy Department bearings on it.

Q I show you Defendant's Exhibit Q for identification, and ask you if you recognize it.

A Yes, I do.

Q What is it?

A This is the chart that was on the chart table on approach to Casablanca.

MR. SCHULMEISTERS: For the record, this is the--the chart number is NO51013.

MR. SMITH: Is that Defendant's Exhibit Q?

MR. SCHULMEISTERS: Yes, Defendant's Exhibit Q.

Q Let me show you another chart that has previously been marked Exhibit R and the numbers are HO3776 and NO51220.

Do you recognize that chart?

A The chart looks familiar, but I don't recognize it as such.

Q Was this chart, Exhibit R, HO No. 3776, on

the chart table when you went on watch on February 26, 1972?

A It may have been, I don't remember right now.

Q Did you yourself do any navigation on that chart?

A On the Exhibit R?

Q Yes, on Exhibit R.

A Not that I remember, no. I used the Navy Department curve chart, Exhibit Q, and the harbor chart.

Q So your testimony is you did not use to navigate HO Chart 3776, is that correct?

A To the best of my recollection, no.

Q Here on Exhibit Q, which is Chart No. 51013, there are some pencil markings and there is a pen notation for a noon position.

Do you recognize the pencil markings?

A They are familiar, yes, but they are not mine.

Q Do you know who put them on there?

A I would have to venture a guess on that, that it was the 8 to 12 mate.

Q But you do not know for sure?

A I don't know for sure.

Q On Defendant's Exhibit D, HO3777, I notice

Q Were those two lines on the chart when you came on watch at 12 o'clock?

A I don't recall.

Q Do you know what those two lines represent?

A They represent track lines, or course lines for the approach and entrance into Casablanca.

Q Prior to just now have you seen Exhibit J before?

A I've seen Exhibit J. But not in this format.

Q In other words, this actual exhibit you have not seen before?

A No.

Q This line that has been marked with a No. 125 and a degree sign, in what way does that differ from the other line C?

A It's further to the northeast of line C and lines up on buoy CA5. Whereas, line C lines up on the end of the breakwater.

Q Do you know which one of these two lines was put on first?

A No, I don't.

Q On which line was the POTOMAC navigating as she was approaching Casablanca Harbor?

A On the line that is marked 125 degrees.

Q What color is the buoy CA5?

A Black.

Q On February 26, 1972, did you know what the color of Buoy CA5 meant?

A In the Moroccan system, no.

Q Did you know that there was a difference between the American system and the Moroccan system?

A No.

Q Did you ask anyone whether there was a difference in the systems?

A No, I didn't.

Q As you were approaching Casablanca Harbor--do you know what a black buoy in the Moroccan system means today?

A Yes.

Q What does it mean?

A It means that you should pass it with the buoy left on the righthand side.

Q That's when entering or leaving?

A Entering.

Q When entering, the buoy should be left on the starboard side?

A On the starboard side.

Q When did you first find that out?

A Yesterday. Well, I found it out actually when we went aground and it turned out to be the wrong way. But yesterday was the first time that it became solid knowledge.

Q You mentioned a stranding just now in one of your answers.

Did there come a time when the POTOMAC stranded?

A Yes. When we were to the south of Buoy CA5 we did strand on an underwater obstruction.

Q Other than Buoy CA5, and now--I now direct your attention to February 26, 1972. Did you know of any other entrance buoys in that area?

A There were some marked on the chart, but I had not, in looking for them, they appeared to be north of the--north of Buoy CA5.

Q On what chart are you talking about?

A I am talking about HO No. 3777.

Q Now are you referring--

A Could I please change my answer?

Q Please do.

A I wasn't paying attention. It was on the approach charts.

Q I show you Defendant's Exhibit Q. Do you se

No. 51013?

A No, I don't.

Q Do you see them on Exhibit R?

A Yes, I do.

Q I believe your testimony was that you did not recall using Exhibit R.

A That's correct. I think I said that with the reservation that it could have been on the chart table, and I could have glanced at it, but not have used the chart. By using it I mean having done actual navigation on the chart.

Q Did any position from Exhibit Q, No. 51013, was transferred to Exhibit D? Which is H03777?

A I don't believe so.

MR. SMITH: Would you read the question and answer back to me, please?

(The question was read.)

Q Was any position from Exhibit Q transferred to Exhibit D?

A I don't believe so.

Q Now, the other approach or entrance buoys that you referred to, they do appear on Exhibit R?

A They do appear on Exhibit R.

Q Would you please identify those buoys?

A They are CA1, CA3 and also CA5.

Q What color is CA3?

A It's black.

Q And what color is CA1?

A Black and white.

Q How are they described, vertical or horizontal?

A I don't know.

Q Does that marking on the chart indicate that to you?

MR. SMITH: I object to the question as leading.

MR. SCHULMEISTERS: Let me rephrase that.

MR. SMITH: The witness answered the question.

Q Let me ask you this, Mr. Hunziker: Is it correct that the marking of the CA1 buoy as shown on Chart Exhibit R, as diamond shaped--

MR. SMITH: Objection. Leading question.

Q Would you please describe the marking on the chart for Buoy CA1?

A The marking on the chart is a majenta dot with a diamond, and a vertical slash through the diamond.

1972?

A A third mate's license.

Q On February 26, 1972 did you know that there were different buoy systems around the world?

A Yes, I did.

Q Prior to going into Casablanca did you attempt to find out whether the Moroccan system was different from the American system?

A No, I didn't.

Q Did you discuss that fact with the master?

A No, it was not discussed.

Q Did you discuss it with any of the other mates?

A To the best of my knowledge, no.

Q A second mate on a vessel, what are his duties?

A Primarily he's the ship's navigator and he corrects his charts and makes sure that the charts and publications are up to date and in order.

Q Let me ask you as a second mate or as a third mate, does the configuration or positioning of buoys CA1, CA3 and CA5 as shown on Exhibit R, which is H03775, indicate anything to you with respect to how the harbor should be approached?

A Configuration of the buoys shows that it should be approached from the north.

Q Which buoy should be--at which buoy should the vessel first arrive?

A Well, according to the chart, buoy CA1.

Q Now that you know that the Moroccan system is different, how then should the vessel proceed?

MR. SMITH: You are asking for an opinion.

MR. SCHULMEISTERS: Yes, as a navigator of a vessel. He's a second mate.

MR. SMITH: I object. He wasn't qualified at the time to answer that question. He shouldn't be qualified now to answer.

Q Prior to obtaining your third mate's license did you take courses in navigation?

A Yes, I did.

Q Prior to obtaining your third mate's license did you take an examination in navigation?

A Yes, I did.

Q With that knowledge that you had at that time how should a vessel--

MR. SMITH: On February 26, 1972?

MR. SCHULMEISTERS: Yes.

at the top of the mast indicates the state of the sea does not permit a pilot to go out. Or the shore signal station may advise by lamp regarding pilot.

Q On February 26, 1972 as the POTOMAC was approaching the harbor Casablanca, and let us limit this to let us say a mile or two miles from the harbor, or from the jetty, did you see such a red flag?

A No, I didn't.

Q Now, I refer you further to sailing directions, page 219. And would you pleaee read line 9 starting with the word "The," after the semicolon?

A "The outer extremity of the breakwater is submerged for a distance of 400 yards."

Q Thank you. That's enough.

Did you notice that when you read the sailing directions as you previously testified about two or three days before entering the harbor?

A I must have noticed it. It didn't register at the time as the underwater portion was also marked on the chart H03777.

Q Did you at any time measure the distance of the underwater portion on the chart, H03777?

MR. SMITH: Are you including today, Mr. Schulmeisters, are you including after the

accident or are you talking about any time prior to the stranding?

MR. SCHULMEISTERS: Well, let's first discuss at any time.

Q Have you ever measured it?

A Yes.

Q When did you do that?

A After the stranding and also earlier this morning.

Q After the stranding, when was that?

A Within minutes after the stranding.

Q Did you ever measure that distance prior to the stranding?

A To the best of my knowledge, no.

Q Does Exhibit D show the position where the vessel stranded?

A May I ask something off the record?

MR. SMITH: No, keep it on the record, please.

A It appears that there are some erasure marks showing where the--approximately where the vessel was stranded.

Q Did you take any--after--let me ask you this: Do you know at what time the vessel stranded?

A 1549.

Q That's on February 26, 1972?

A February 26, 1972, right.

Q Did you in any manner on that day after the stranding ascertain the vessel's position?

A By radar. I took bearings on both the above-water portion of the end of the breakwater and of the position of buoy CA5.

Q Did you take any visual bearings with a bearing circle?

A I may have, but I don't remember.

Q What was the result of your measurement on the radar?

A The result showed that according to the chart we were in fair water, approximately 9¼ fathoms.

Q About how far from the visible portions of the breakwater?

A Between 2/10 and 3/10 of a mile, about a--from both the breakwater and the buoy CA5.

Q About 2/10 of a mile, how far is that in yards.

A It would be approximately 400 yards.

Q Prior to the stranding did you at any time

give to Captain Hansen radar distance the vessel was from the visible portion of the breakwater?

A Yes, I did.

Q What was the shortest distance that you gave him prior to stranding?

A I don't remember at this time.

Q Could you say within minutes--let me rephrase that.

Could you say whether it was within minutes or seconds of a stranding?

A It would be within minutes.

Q When you gave Captain Hansen these radar distances from the visible portion of the breakwater, did you have in mind, this is now February 26, 1972, did you have in mind the information you had read in the sailing directions that the underwater portion of the breakwater--

MR. SMITH: Objection as leading.

MR. SCHULMEISTERS: I don't think so.

MR. SMITH: It is leading. You are putting the words in his mouth.

Q Let me ask you this: When you gave Captain Hansen the radar distances from the breakwater, on February 26, 1972, prior to stranding, did you know then

that the underwater portion of the breakwater extended 400 yards?

A As I stated before I read it, but it did not register as the breakwater--underwater breakwater portion was charted on the chart.

Q And you had not measured the actual--

A No, I had not measured the actual distance.

Q Did Captain Hansen at any time mention to you anything concerning the 400 yards underwater extension prior to stranding?

A To the best of my knowledge, no.

Q Now, these bearings which you say appear to have been erased on Exhibit D, did you take those bearings?

A I cannot say as there are no numerals or anything like that, there are two lines, appear to be two lines, excuse me, and there are no numerals which I could identify as my writing.

Q Do you recall plotting on the chart visual bearings?

A No, I don't recall plotting on the chart visual bearings. I recall taking radar bearings and distances off. I possibly made a pencil point with a circle around it to indicate the position that we were,

Q Now, what does the sign at 1550 mean?

A It's a backwards check mark with two slashes and it means full astern.

Q Is this a standard system for marking engine maneuvers in a bellbook?

A It was the system that I was taught, and the system that I was taught and that I use in every ship that I have been on.

Q Referring to both Exhibits D and J, is the grounding position shown on the chart?

A To the best of my knowledge, the grounding position would be the two lines that appear to be partially erased just to the northeast or east north east of the breakwater.

Q Would that be the two lines that are right next to the dot that was--that has been labeled on Exhibit J with a red letter I?

A Yes, that would be.

Q What speed was the POTOMAC revving at prior to the 1537 stop order?

A Approximately 13 knots.

Q 13 knots?

A Approximately.

Q Now,is that position for 1537 shown on

Exhibit D?

A 1537 possibly. And--okay.

Q Why do ybu ;ay possibly?

A I want to make an answer but I'm not sure how to put it.

There is a position shown on Exhibit D that says 1.6 stop. And without facilities to measure I couldn't tell you if that was approximately where we were or not.

Q Would a pair of dividers help?

A Please.

Yes, I would say that the position marked on Exhibit D and J is 1.6 stop, is the position at 1537.

MR. SCHULMEISTERS: Let the record indicate that prior to giving this last answer, the witness made measurements with a pair of dividers on Exhibit J.

Q Is that correct?

A Correct.

Q The grounding time was at what time?

A The grounding time was at 1549.

Q And it would be in the area of the two crosses, is that correct?

A Of the two--

Q Let me rephrase the question. Strike the question, please.

It would be in the area of the two lines that cross that have been labeled, on Exhibit J, with the position--with the red letter I? Is that correct?

A Correct.

Q Now, would you please measure the distance between the 1537 position and the stranding position?

A Approximately 1.7 miles.

Q What is the time interval between 1537 position and the stranding position?

A The time involved.

Q The time interval?

A 12 minutes.

Q What would be the average speed between those two positions?

A About 8½ knots.

Q That would be 8½ knots through the water?

A Through the water.

Q Prior to the vessel stranding, did you observe buoy CA5?

A Yes, we did.

Q What did it look like?

A It was a black can buoy with a light and a

A Yes, he said that the buoy should have been left to the right. Or the starboard side.

Q Was the pilot on board--let me rephrase that.

Did there come a time prior to stranding when the vessel's course was changed so as to pass buoy CA5 to port?

A Yes, there was.

Q Was the pilot on board at that time?

A No, he was not.

MR. SMITH: Would you read the question and the answer back, please?

(The record was read.)

MR. SCHULMEISTERS: Let me rephrase the next to the last question.

Q Did there come a time when the course of the POTOMAC was changed so as to leave buoy CA5 on the vessel's portside?

A Yes.

Q And the pilot--was the pilot on board at that time?

A No, he was not.

Q What was the height of the breakwater?

A By estimation probably between 50 and 75 feet.

Q That would be above the water?

A Yes.

Q We are talking about the visible portion?

A The visible portion of the breakwater.

Q I show you three photographs. Can you identify them, please?

A Yes. One is a photograph of the bellbook, background of the harbor chart No. H03777. The second one is a photograph of the breakwater buoy CA5 and partial shore line and moles of HO No. 3777.

Q It's a photograph of the chart, right?

A Yes.

And the third is a photograph of the deck logbook for the date of February 26, 1972.

Q Of what vessel?

A Of the SS POTOMAC.

MR. SCHULMEISTERS: Would you please mark these three photographs--

MR. SMITH: May I see them before they are marked?

Are these blowups of these, Mr. Schulmeisters?

MR. SHULMEISTERS: Yes.

MR. SMITH: You represented before that they were pictures taken by Mr. Hunziker--

AA, BB and CC.

(Three photographs, marked Hunziker Exhibits AA, BB and CC for identification, as of this date.)

MR. SCHULMEISTERS: For the record let me just identify these.

Exhibit AA is a photograph of the bellbook for the date February 26, 1972.

BB is a photograph of the logbook for the POTOMAC for the date of February 26, 1972.

And CC is a photograph of the chart of the harbor Casablanca.

Q Mr. Hunziker, is photograph CC at the time it was taken a photograph of Exhibit D?

A As Exhibit D appears today.

Q No, as it appeared a the time the photo was taken.

MR. SMITH: Naturally the photo speaks for itself, that's what he recorded with his camera.

Q That is a photograph of the chart which eventually has been marked Exhibit D, is that correct?

A Yes, it is.

Q Did you send these photographs to me, Mr.

Hunziker?

A Yes, I did. As subsequent to a telephone call that I had from you and--asking me for any information that I had concerning the grounding.

Q This document I show you here now, can you identify that, please?

A Yes, that's the letter that I wrote to accompany the photographs that I sent to you.

MR. SCHULMEISTERS: Would you mark that, please, as Defendant Hunziker Exhibit DD?

(Letter, marked Hunziker Exhibit DD for identification, as of this date.)

Q Now, Mr. Hunziker, I show you five sheets or negatives. Can you identify them, please?

A No. 2 is a slide of HO Chart No. 3777. HO3 is a slide--

Q You mean No. 3, not HO3.

A Excuse me. No. 3 is a slide of the ship's logbook, SS POTOMAC for February 26, 1972. Slide No. 4 is also a picture of the logbook for the POTOMAC, January 26th--

Q January or February?

A Excuse me, February.

Slide No. 5 is of the bellbook of the POTOMAC

nothing unusual was done. But anyone--if you will dispute the information on there we will bring the man in.

Mark this enlargement of--which is in black and white of the chart as Hunziker Exhibit HH for identification.

(Photograph,marked Hunziker Exhibit HH for identification, as of this date.)

MR. SCHULMEISTERS: And the enlargement of the photograph of the logbook as Hunziker II for identification.

(Enlargement of photograph of logbook, marked Hunziker Exhibit II for identification, as of this date.)

MR. SCHULMEISTERS: And the enlargement of the bellbook as Hunziker JJ for identification.

(Enlargement of photograph of bellbook, marked Hunziker Exhibit JJ for identification, as of this date.)

BY MR. SCHULMEISTERS:

Q Mr. Hunziker, I refer you now to the negatives and the photographs, and of course the enlargements, and did you take the photographs yourself?

A Yes, I did.

Q Do you usually take photographs of the logbook?

A No, I don't.

Q Would you please explain why you took these particular photographs and also I am now placing in front of you the deck logbook of the POTOMAC previously identified as Defendant's Exhibit E for identification, opened up to the page for Saturday, 26 February, 1972?

A The reason for taking the photographs was that in school and subsequent to graduating from school I had understood that in the event of a casualty or grounding, or collision of any sort, that many times the, not only is the master, if the master is found at fault or brought into proceedings but also the officer on watch, the watch officer, and I took the photographs to--and mailed them to my parents so that in the subsequent time between arrival in Casablanca and arrival back in the United States that they could show them to an attorney and if there was subsequent proceedings by either the Coast Guard or someone else, that I would be able to be represented by legal advice.

Q Now, when did you take the photographs?

A The photographs were taken on the 12 to 4 watch, that's midnight to 0400, on the 27th of February.

Q Now, I would like you to look at Exhibits BB--

MR. SMITH: Excuse me. Let me

interuupt at this point. Were all the photographs taken at that time?

THE WITNESS: Yes, they were.

MR. SMITH: All of them?

THE WITNESS: Yes.

MR. SMITH: On the 12 to 4 watch on the 27th?

THE WITNESS: Yes.

MR. SMITH: Is that the a.m. or p.m. watch?

THE WITNESS: That's the a.m.

BY MR. SCHULMEISTERS:

Q Let me refer you to Exhibits BB and II and the logbook, Exhibit E.

Does the logbook today look the same--let me rephrase that.

Does the logbook for February 26, 1972 look the same today as when you took your photographs?

A No, it does not.

Q Have there been--let me rephrase that.

In what way does it not look the same?

A There are additional entries and the original signature for the watch is scratched and initialled by me, and subsequent signature by me, I believe, yes, that's

my signature, is entered further down the page.

MR. SMITH: Are these all the photographs you took on board the vessel?

THE WITNESS: Yes, as far as I know. I believe I have copies at home for myself.

MR. SCHULMEISTERS: There are a few more negatives of the same pictures, if you wish to have them here,that have not been printed.

MR. SMITH: Did you take any photographs after the entry was--the additional entry was--

MR. SCHULMEISTERS: Why don't you wait for your cross examination?

MR. SMITH: I want to get the record straight now. You have done it yourself in my examination. I want to do it now while we are talking about it. I am questioning the admittance of these particular documents, I have a right to do it right now before they are used any further.

Do you have any other photographs that you took of the logbook after the additional entries were made?

THE WITNESS: No, I don't.

MR. SMITH: These are the only

Q I see that this one here is in a slanted form as opposed to your earlier signatures being right on the line. Why is it that--why is it written that way?

A I can't explain it, why it is written in a slanted form except that I was in a hurry. That's the only explanation I can make.

Q Please tell me how you came about--let me withdraw that.

Please explain how you came to make these additional entries.

A I was called to the master's office and he handed me a typewritten sheet with the additional entries on it and asked me to put these--asked me to read it and if it was--the entries wre okay by me, as far as I agreed to putting them in there, would I put them into the logbook and I did at that time, as they were agreeable to me.

Q When did that happen?

A To the best of my recollection it was after we left Casablanca. I must say again to the best of my recollection.

Q Was it the same day that you took the photographs?

A No, it was not.

Q It was at least several days later--

MR. SMITH: Objection. You are taking this deposition. He's your witness. You can't feed him the information and ask him a couple of more questions and get it back from him. I object to this form of questioning, it's highly improper, and I want you to stop it.

Q How many days after February 26, 1972 did the POTOMAC leave Casablanca?

A I'm not sure, but it would be about 15 days.

Q Did you ever, previous to this, give any statement concerning the time of the additional entries?

A Concerning the time?

Q Yes, concerning the time of the additional entries?

A At the Coast Guard inquiry, when I made a deposition for the Coast Guard in Seattle, I stated there that there was a period of time that I believed to be after we left Casablanca, when the additional entries were made.

Q I show you here--which is stapled to the page for the Saturday, 26 February, 1972, a white copy of what appears to be the logbook. Do you recognize

that? And if so, what is it?

A Yes, it appears to be a carbon copy of the logbook for February 26, 1972.

Q There appears to be on the reverse side of the white copy a stamp which reads, "Received '72, Mar. 15, a.m., 956, Ogden Marine, Inc."

Do you recognize what that stamp is, generally speaking?

A Yes, I do.

Q What?

A It's a stamp that is usually placed on mail or messages or documents when such are received at their place of address.

Q Does this white copy also contain the additional entries we are talking about?

A Yes, it does.

Q Would that in any way change your testimony concerning the time when the additional entries were made with respect to after the vessel left Casablanca?

A It could have. If the information on the white sheet was received in--at the Ogden Marine, Inc., on the 15th of March, 1972, then the entries would have had to be made before we left Casablanca.

Q You said the vessel was in Casablanca for

about 15 days?

A Approximately.

Q Within that time frame, 15-day time frame, and with the aid of this white copy in the logbook, could you say approximately how many days after February 26, 1972 the additional entries were made?

A See, I could conject, but I couldn't make a definite statement.

Q Give us your best estimate.

A It would probably have to be about the 8th or 9th of March.

Q So that would be at least more than a week after the stranding?

A Yes.

MR. SMITH: Objection. Again, you phrase your questions in a very bad way, Mr. Schulmeisters. They're leading questions. On those questions that are not too important I don't object to them, but I could object to many more. On significant questions I have to register my objection, but you just twist it around a little bit later and ask the same question a little bit later, or give the witness the information. It would not be allowed in a courtroom.

A Closer to the stern than what?

Q Than the bow.

A Yes, it would.

Q Approximately now this is just approximately, how far from the stern would the radar antenna be?

A 125 feet, 100 feet, approximately.

Q So approximately how far would the radar antenna be from the bow?

A 430 to 455 feet.

Q Now, the radar scope on the bridge, the center of it, does that measure--what does that measure, the--what point on a ship?

A The radar scope measures a beam point on the--at the bridge.

Q How far away is that from the radar antenna?

A Excuse me?

Q How far would a beam point on a bridge be from the radar antenna?

A Horizontal distance, 20 or 25 feet, approximately.

Q Would the radar distance show you the distance an object that you are taking, a distance from the bridge or from some other point on the ship?

A Excuse me.

AFTERNOON SESSION

1:35 p.m.

C A L V I N C H A R L E S H U N Z I K E R, J R.,
resumed the stand and testified further as follows:
EXAMINATION BY MR. SMITH:

Q Mr. Hunziker, when were you first contacted by the United States with respect to this accident?

A I was--I'd have to refer to the letter, but it was some time early in March, I believe.

Q How were you contacted?

A By telephone.

Q By whom?

A By Mr. Schulmiesters.

Q Was there any subsequent communications between you and Mr. Schulmeisters, aside from that letter?

A Well, via telephone, yes.

Q Any writings?

A No. There was no further letters from me or from Mr. Schulmeisters.

MR. SCHULMEISTERS: Let me correct that. There was one cable that was sent to you.

A There was a cable sent to the ship three days ago, two days ago, it was dated,I believe, the 5th of this month, August.

Q Do they show up as lines or erasures in that photograph?

A They show up as lines in that photograph, sir.

Q We are still talking about the lines marked L on Exhibit HH. Do they have any bearing on the stranding position?

A No, they do not.

Q They merely represent the position of the vessel some time later after she anchored, is that correct?

A That's correct.

Q As the vessel approached Casablanca Harbor, was the CA5 buoy on your port bow or your starboard bow?

A On the starboard bow, sir.

Q How many points?

A I say between fine and one point on the starboard.

MR. SCHULMEISTERS: What do you mean by fine?

THE WITNESS: Within a degree.

Q Did you have any conversation with Captain Hansen as to which side you had passed the buoy?

A No, sir, I didn't.

see.

MR. SMITH: This is cross examination. Would you read the question back, please?

(The question was read.)

Q Is that right?

A That's right.

Q After the stranding did you reread the sound directions at any time?

A To the best of my recollection, no.

Q Is it customary to measure the various objects on charts to verify their correctness?

A How do you mean? In reference to what, sir?

Q Some object on a chart, for example, this underwater extension, that is off the end of Jetee Delure?

A I would say yes, that it's customary to measure approximately the distance off that you would pass it if you were planning on passing it close by. But on coming into Casablanca, pure conjecture again as to the course that we were steering, that we were going to pass her with buoy CA5 on the right side of us, I didn't think to go ahead and measure the underwater portion as it wouldn't be close to it.

A Before we stranded, yes. There was--as we were approaching buoy 5A and turning to avoid the other vessel there was a pilot boat in sight near the end of the breakwater. And I assumed this to be the pilot boat that we were supposed to meet, the pilot that we were to pick up.

Q You mentioned a conversation between the pilot and the captain about some work being done on the breakwater.

Did he mention--say when that work was done?

A No, he did not. He just said that there--they had been in the process of lengthening the breakwater and in that process it was possible that some of the stones that they were using for the underwater portion had tumbled off the end.

Q He didn't say in what year the work had been in progress, is that correct?

A No, sir, he did not.

Q Was there any rust on the buoy, the CA5 buoy?

A That I can remember, no.

Q Did you discuss the white copy of the log for February 26th, which is attached to the logbook, with Mr. Schulmeisters prior to testifying today?

A Yes.

A Which statement, sir?

Q The last part of that answer that you gave?

A Yes, I would have.

Q When did you leave the bridge?

A I was on and off the bridge during the entire time that we were aground. The exact time that I left the bridge, I don't remember. But I was on the bridge when we came afloat. I was not on watch but I was on the bridge when we came afloat.

Q When were you on the bridge when you anchored?

A No, sir, I was not.

Q Where were you at that time?

A I was eating.

Q What did you do after you ate?

A I went to bed.

Q Did you go out on deck after that?

A No, sir.

Q What time did you go to bed?

A I believe it was around six. I went to my room, but I didn't go immediately to sleep.

Q Did you anchor at that time?

A I believe so.

Q What were your observations as to the traffic as you approached Casablanca?

A As we approached Casablanca there was what appeared to be a sailboat regata or sailboat race covering the--almost the entire area leading up to the breakwater and the entrance and over through the prohibitive anchorage zone around and to the north of buoy CA5. Also there was a ship emerging from behind the breakwater which I informed the master about while it was behind the breakwater and again when the--emerged from behind the breakwater. The ship was on a northeastly course, I guess it is, coming out of the--out from behind the breakwater.

Q Could you put that position in with this green pen, please?

A Which position do you mean, sir?

Q The position of the other vessel as she emerged from the breakwater.

A Well, as she emerged from the breakwater, she was approximately in here, this is where I could first see her from behind the breakwater. I was in here, because we were coming in this way and her nose came around the breakwater like this, headed in this direction.

Q Was she headed up towards buoy CA5?

A Yes, she was headed up close to buoy CA5.

Q Would you put the position on the chart, as I

requested? Just the outline of the ship.

(Witness complies.)

Q Would you mark that Position 1, please?

A 1?

Q Right.

That's on Defendant's Exhibit J.

Would you put the position of the POTOMAC, to the best of your recollection, at that time?

A I would say it was approximately in here.

Q And you were still heading down towards the buoy, is that correct?

A Yes.

MR. SCHULMEISTERS: Are you going to label that position?

Q Label this position 1 Prime, please.

(Witness complies.)

Q What orders, if any, did the master give at that time?

A I told him that the ship was emerging and he said he saw it and he said it looks like we will have to go around him, that there wouldn't--it will be a close quarter situation, that there didn't seem to be enough sea room for the other ship to maneuver.

Q What did you think?

A I was of the same opinion.

Q You thought there was a risk of collision?

A Definitely, yes. And he requested me to go back in the chart room and give him the depth of water around buoy CA5.

I went in and as it was, you know, a short period of time, and I didn't have time to measure the length of the underwater portion of the breakwaters, but I told him there was 9¼ fathoms around buoy CA5.

Q Where did you mean?

A In this area here, to the southeast of buoy CA5. Or southwest, excuse me.

Q And specifically did you mean that area that's marked 9 fathoms?

A 9¼ fathoms, yes.

Q Would you just put a green circle around that?

MR. SCHULMEISTERS: Mr. Smith, we have quite a few markings on this chart.

MR. SMITH: I'm using a green pen.

MR. SCHULMEISTERS: You are cluttering up the exhibit and this is one of my exhibits. You have other copies of this, I would prefer that you use one of yours. All right, make your mark on this.

the sailing directions. Does that say how far the underwater extension extended?

A Yes, it does.

Q What is the distance?

A 400 yards.

Q What does it measure on the chart Exhibit D?

A 400 yards, approximately, to this point from the above water portion.

Q By this point you are now referring to the stranded position?

A I am referring to the partially erased dot on the chart which could be the stranding position. As I stated before, the only distances I had were between 2/10 and 3/10 of a mile from the end of the breakwater which would put it anywhere from 400 to 600 yards off the breakwater.

Q My question is does the sailing direction-- do the sailing directions say how far the underwater extension extended?

A Yes, they do.

Q That's 400 yards?

A Yes.

Q What does the chart show the underwater extension to be, as charted?

The natural and numerical scales of a chart are readily interchangeable. For instance, in a nautical mile there are about 6,076.103 feet or 6,076.103×12=72,913.24 inches. If the natural scale of a chart is 1:80,000, one inch of the chart represents 80,000 inches of the earth, or a little more than a mile. To find the exact amount, divide the scale by the number of inches in a mile, or $\frac{80,000}{72,913.24}=1.097$. Thus, a natural scale of 1:80,000 is the same as a numerical scale of 1.097 (or approximately 1.1) miles to an inch. Stated another way, there are $\frac{72,913.24}{80,000}=0.911$ (approximately 0.9) inch to a mile. Similarly, if the numerical scale is 60 nautical miles to an inch, the natural scale is 1:(60×72,913.24)=1:4,374,794.

It should be clearly understood that scale, as discussed above, refers to *distances*, not *areas*. If the area scale is desired, it is found by squaring the natural scale. Thus, if the natural scale of a chart is 1:50,000, the corresponding area scale is 1:(50,000×50,000)=1:2,500,000,000 or one square inch on the chart represents 2,500,000,000 square inches on the earth, or a square 50,000 inches on a side.

A chart covering a relatively large area is called a *small-scale* chart and one covering a relatively small area is called a *large-scale* chart. Since the terms are relative, there is no sharp division between the two. Thus, a chart of scale 1:100,000 is large scale when compared with a chart of 1:1,000,000 but small scale when compared with one of 1:25,000.

504. Chart classification by scale.—Charts are constructed on many different scales, ranging from about 1:2,500 to 1:14,000,000 (and even smaller for some world charts). Small-scale charts covering large areas are used for planning and for offshore navigation. Charts of larger scale, covering smaller areas, should be used as the vessel approaches pilot waters. Several methods of classifying charts according to scale are in use in various nations. The following classifications of nautical charts are those used by the U. S. Navy Hydrographic Office and the U. S. Coast and Geodetic Survey:

Sailing charts are the smallest-scale charts used for planning, fixing position at sea, and for plotting the dead reckoning while proceeding on a long voyage. The scale is generally 1:600,000 or smaller. The shore line and topography are generalized and only offshore soundings, the principal navigational lights, outer buoys, and landmarks visible at considerable distances are shown.

General charts are intended for coastwise navigation outside of outlying reefs and shoals. The scales range from about 1:100,000 to 1:600,000.

Coast charts are intended for inshore coastwise navigation where the course may lie inside outlying reefs and shoals, for entering or leaving bays and harbors of considerable width, and for navigating large inland waterways. The scales range from about 1:50,000 to 1:100,000.

Harbor charts are intended for navigation and anchorage in harbors and small waterways. The scale is generally larger than 1:50,000.

In addition, there are special series of charts, such as the 1:40,000 U. S. Coast and Geodetic Survey charts of the Intracoastal Waterway (inside route) and various series of river and canal charts.

505. Accuracy.—The accuracy of a chart depends upon:

1. *Thoroughness and up-to-dateness of the survey and other navigational information.* Some estimate of the accuracy of the survey can be formed by an examination of the source notes given in the title of the chart. If the chart is based upon very old surveys, it should be used with caution. Many of the earlier surveys were made under

conditions that were not conducive to great accuracy. It is safest to question every chart based upon surveys of doubtful accuracy.

The number of soundings and their spacing is some indication of the completeness of the survey. Only a small fraction of the soundings taken in a thorough survey are shown on the chart, but sparse or unevenly distributed soundings indicate that the survey was probably not made in detail. Large or irregular blank areas, or absence of depth curves, generally indicate lack of soundings in the area. If the water surrounding such a blank area is deep, there is generally considerable depth in the blank; conversely, shallow water surrounding such an area indicates the strong possibility of shoal water. If neighboring areas abound in rocks or are particularly uneven, the blank area should be regarded with additional suspicion. However, it should be kept in mind that relatively few soundings are shown when there is a large number of depth curves or where the bottom is flat or gently and evenly sloping. Additional soundings are shown when they are helpful in indicating the uneven character of a rough bottom (figs. 505a and 505b).

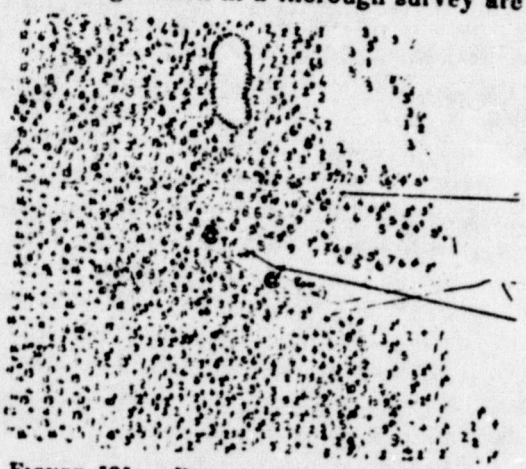


FIGURE 505a.—Part of a boat sheet, showing the soundings obtained in a survey.

Even a detailed survey may fail to locate every rock or pinnacle, and in waters where their existence is suspected, the best methods for determining their presence are wire drag surveys or use of electronic underwater obstacle detection gear. Areas that have been dragged may be indicated on the chart and a note added to show the effective depth at which the drag was operated.

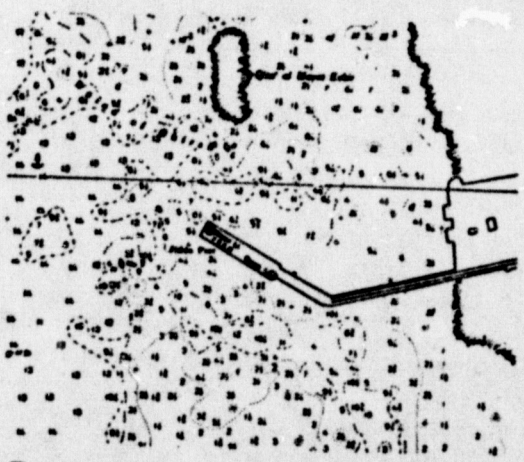


FIGURE 505b.—Part of a nautical chart made from the boat sheet of figure 505a. Compare the number of soundings in the two figures.

Changes in the contour of the bottom are relatively rapid in areas where there are strong currents or heavy surf, particularly when the bottom is composed principally of soft mud or sand. The entrances to bar harbors are especially to be regarded with suspicion. Similarly, there is sometimes a strong tendency for dredged channels to shoal, especially if they are surrounded by sand or mud, and cross currents exist. Notes are sometimes shown on the chart when the bottom contours are known to change rapidly. However, the absence of such a note should not be regarded as evidence that rapid change does not occur.

Changes in aids to navigation, structures, etc., are more easily determined, and charts are generally corrected in this regard to the date of distribution. However, there is always the possibility of a change having occurred since the chart was mailed or received. The date to which the chart was corrected is stamped on it

933. Practical piloting.—In pilot waters, navigation is primarily an art. It is essential that the principles explained in this chapter be mastered and applied intelligently. From every experience the wise navigator acquires additional knowledge and improves his judgment. The mechanical following of a set procedure should not be expected to produce satisfactory results always.

While piloting, the successful navigator is somewhat of an opportunist, fitting his technique to the situation at hand. If a vessel is steaming in a large area having relatively weak currents and moderate traffic, like Chesapeake Bay, fixes may be obtained at relatively long intervals, with a dead reckoning plot between. In a narrow channel with swift currents and heavy traffic, like the East River between Manhattan and Long Island, New York City, an almost continuous fix is needed. In such an area the navigator may draw the desired track on the chart and obtain fixes every few minutes, or even seconds, directing the vessel back on the track as it begins to drift to one side.

If the navigator is to traverse unfamiliar waters, he studies the chart, sailing directions or coast pilot, tide and tidal current tables, and light lists to familiarize himself with local conditions. The experienced navigator learns to interpret the signs around him. The ripple of water around buoys and other obstructions, the direction and angle of tilt of buoys, the direction at which vessels ride at anchor, provide meaningful information regarding currents. The wise navigator learns to interpret such signs when the position of his vessel is not in doubt. When visibility is poor, or available information is inconsistent, the ability developed at favorable times can be of great value.

With experience, a navigator learns when a danger angle or danger bearing is useful, and what ranges are reliable and how they should be used. However familiar one is with an area, he should not permit himself to become careless in the matter of timing lights for identification, plotting his progress on a chart, or keeping a good recent position. Fog sometimes creeps in unnoticed, obscuring landmarks before one realizes its presence. A series of frequent fixes obtained while various aids are visible provides valuable information on position and current.

Practical piloting requires a thorough familiarity with principles involved and local conditions, constant alertness, and judgment. A study of avoidable groundings reveals that in most cases the problem is not lack of knowledge, but failure to use or interpret available information. Among the more common errors are:

1. Failure to obtain or evaluate soundings.
2. Failure to identify aids to navigation.
3. Failure to use all available navigational aids.
4. Failure to correct charts.
5. Failure to adjust a magnetic compass or maintain an accurate table of corrections.
6. Failure to apply deviation, or error in its application.
7. Failure to apply variation, or to allow for change in variation.
8. Failure to check gyro and magnetic compass readings at frequent and regular intervals.
9. Failure to keep a dead reckoning plot.
10. Failure to plot information received.
11. Failure to properly evaluate information received.
12. Poor judgment.
13. Failure to do own navigating (following another vessel).
14. Failure to obtain and use information available on charts and in various publications.

15. Poor ship organization.
16. Failure to "keep ahead of the vessel."

Further discussion on practical piloting is given in chapter XXIII.

Problems

904. The navigator of a vessel on gyro course 214° obtains a relative bearing on a lighthouse of 86° left. The gyro error is 1°W, deviation of the standard compass is 3°W, and variation is 13°E.

Required.—The (1) gyro-, (2) true-, (3) standard-compass-, and (4) magnetic bearings of the lighthouse.

Answers.—(1) Bpgc 128°, (2) TB 127°, (3) CB 117°, (4) MB 114°.

Problems 906a–909g, 911a–911c, and 916b are based upon the following fictitious aids to navigation, which can be plotted on a large-scale plotting sheet (art. 324) or a clear part of a coast chart for the appropriate latitude. The latitude range of these problems is from 40°20′N to 40°40′N. Approach charts to New York include this range. The longitude range is from 164°20′W to 164°40′W. In these problems the gyro compass is the reference for all courses and bearings, and it is considered to be without error.

	Latitude	*Longitude*
Jones Point Light	40°20′.6 N	164°20′.5 W
Parker Point Light	40°23′.7 N	164°21′.2 W
Point Carlson Light	40°22′.0 N	164°28′.3 W
North Baker Range Light	40°33′.9 N	164°38′.2 W
South Baker Range Light	40°31′.5 N	164°34′.7 W
Hanford Mid-channel Buoy	40°22′.9 N	164°34′.1 W
Water tower	40°36′.2 N	164°27′.9 W
West Bank Lightship	40°39′.5 N	164°20′.3 W
Cupola	40°25′.4 N	164°21′.3 W

906a. A navigator of a vessel on course 075° observes Jones Point Light to bear 56° right at the same time an assistant observes Parker Point Light to bear 46° left.

Required.—The fix at the time of the bearings.

Answer.—Fix: L 40°21′.9 N, λ 164°22′.5 W.

906b. A vessel under way in fog obtains simultaneous radar ranges (distances) on Point Carlson Light bearing southerly (3.0 miles) and Parker Point Light (5.5 miles).

Required.—The fix at the time of the distance measurements.

Answer.—Fix: L 40°25′.0 N, λ 164°28′.2 W.

906c. A vessel under way with the Baker Range dead ahead observes Point Carlson Light broad on the port beam.

Required.—The fix at the time Point Carlson Light is abeam.

Answer.—Fix: L 40°24′.9 N, λ 164°25′.0 W.

906d. The navigator of a vessel on course 110° measures the vertical sextant angle between the top of Point Carlson Light and the water at the same time the light bears dead ahead. The top of the light is 200 feet above the water and the sextant angle is 0°13′.

Required.—The fix at the time the angle is measured.

Answer.—Fix: L 40°24′.4 N, λ 164°37′.0 W.

906e. A vessel is under way with the Baker Range dead ahead. The South Baker Range Light is 5.0 miles off by radar.

Required.—The fix at the time of measurement.

Defendant's Exhibit B

APPENDIX J

BUOYAGE SYSTEMS

With modifications, two systems of buoyage are in general use throughout the world. These are the **lateral system** and the **cardinal system.**

The lateral system is best suited for well-defined channels. The location of each buoy indicates the direction of the danger it marks relative to the course which should normally be followed. Thus, a buoy which should be kept on the port hand lies between the vessel and the danger when the buoy is abeam to port, approximately.

In principle, the positions of marks in the lateral system are determined by the general direction taken by the mariner when approaching a harbor, river, estuary, or other waterway from seaward, and may also be determined with reference to the main stream of flood current. The application of this principle is defined, as required, by nautical documents such as sailing directions.

The cardinal system is best suited for coasts with numerous rocks, shoals, and islands, and for dangers in the open sea. The location of each buoy indicates the approximate true bearing of the danger it marks. Thus, an eastern quadrant buoy marks a danger, such as a shoal, which lies to the west of the buoy, approximately.

Although almost all of the major maritime nations have used either the lateral or the cardinal system for many years, details such as the shapes and colors of the buoys and the characteristics and colors of lighted aids generally have varied from country to country. With the passage of time and the increase in maritime communication between countries, the desirability of a uniform system of buoyage has become increasingly apparent. Consequently, over the past century a number of attempts have been made to standardize the various systems of buoyage. International conferences have been held on the subject and recommendations have been made. These recommendations have often been conflicting, however, and although the differences in the various methods as applied to the cardinal system are comparatively slight, two distinct methods of applying the lateral system have evolved. The major discrepancy has been in the colors of the buoys and of their lights.

In 1889 the *International Marine Conference* held in Washington, D. C., recommended that in the lateral system starboard hand buoys be painted red and port hand buoys black. With the introduction of lighted aids to navigation, these recommendations logically led to the use, by nations which had accepted the recommendation, of red or white lights on the starboard side and green or white lights on the port side.

In 1936 in the most recent international pronouncement on the subject, a League of Nations subcommittee recommended a coloring system diametrically opposed to the 1889 proposal. This is part of the **Uniform System,** and it provides for black buoys with green or white lights on the starboard side and red buoys with red or white lights on the port side.

Most maritime countries using the lateral system have adopted one of these two systems, usually with small variations. It may be said that, *very generally,* European countries follow the Uniform System of 1936 and most other countries follow the system proposed in 1889. Special Publication No. 38 of the International Hydrographic Bureau, *Systems of Maritime Buoyage and Beaconage Adopted by Various Countries,* contains discussions and illustrations of the systems actually used by 39 maritime

countries, as well as the Uniform System. When actually piloting, *the navigator should in every case consult the latest nautical literature of the country in question.* The following is an abridgement of parts of IHB Special Publication No. 38:

United States System

The waters of the United States are marked by the lateral system of buoyage recommended by the International Marine Conference of 1889. As all channels do not lead from seaward, arbitrary assumptions are at times made in order that the system may be consistently applied. Along the sea coasts of the United States, the characteristics are based upon the assumption that proceeding "from seaward" constitutes a *clockwise* direction: a southerly direction along the Atlantic coast, a northerly and westerly direction along the Gulf coast, and a northerly direction along the Pacific coast. On the Great Lakes, a westerly and northerly direction is taken as being "from seaward" (except on Lake Michigan, where a southerly direction is used). On the Mississippi and Ohio Rivers and their tributaries, the characteristics of aids to navigation are determined as proceeding from sea toward the head of navigation. On the Intracoastal Waterway, proceeding in a generally southerly direction along the Atlantic coast and in a generally westerly direction along the Gulf coast is considered as proceeding "from seaward."

The continuation of the lateral system along the coasts in the order indicated refers only to the side of the vessel on which buoys are to be kept, as indicated by color, shape, and light, if any; there is no numerical continuity between coast buoys. In fairways and channels, however, buoys are numbered consecutively from seaward.

In the United States System, lighted buoys, bell buoys, whistle buoys, and combination buoys differ in shape (fig. 917) from the unlighted buoys shown in this appendix, but not in color or marking.

In the Mississippi River, the numbering and lighting of buoys differ from that shown under "Fairways and Channels."

Uniform System

As recommended by the League of Nations in 1936, a country uses the *Uniform Lateral System* or the *Uniform Cardinal System*, or both, according to its requirements or preference. When both are used, the transition from one to the other must be clearly indicated in appropriate publications, such as sailing directions, or by suitable buoyage marks.

Both the Uniform Lateral System and the Uniform Cardinal System employ **topmarks** as an additional means of identification. Unless otherwise stated in this appendix, a topmark is painted the darker of the colors used on the buoy. They are optional in every case except on wreck buoys in the Uniform Cardinal System. Topmarks are not used in the United States System.

In both the Uniform Lateral System and the Uniform Cardinal System, lighted buoys have the same shape as the unlighted buoys shown. This differs from the United States System, in which distinctively shaped buoys are used for lighted aids.

In both the Uniform Lateral System and the Uniform Cardinal System, a quick flashing light is regarded as a single flashing light.

The numbering or lettering of fairway and channel buoys is an optional feature of the Uniform Lateral System. In the United States System these buoys are always numbered, commencing from seaward.

Defendant's Exhibit B

APPENDIX K

CHART SYMBOLS

(Extracts from Chart No. 1)

GENERAL REMARKS

Chart No. 1 contains the standard symbols and abbreviations which have been approved for use on nautical charts published by the United States of America.

Symbols and abbreviations shown on Chart No. 1 apply to the regular nautical charts and may differ from those shown on certain reproductions and special charts.

Terms, symbols and abbreviations are numbered in accordance with a standard form approved by a Resolution of the Sixth International Hydrographic Conference, 1952.

Vertical figures indicate those items where the symbol and abbreviation are in accordance with the Resolutions of the International Hydrographic Conferences, or for which Resolutions do not yet exist.

Slanting figures indicate those items where the symbol and/or abbreviation differ from the Resolutions of the Conferences.

Vertical figures in parentheses indicate that the items are in addition to those shown on the approved standard form.

Colors are optional for characterizing various features and areas on the charts.

Lettering styles and capitalization as used on Chart No. 1 are not always rigidly adhered to on the charts.

Longitudes are referred to the Meridian of Greenwich.

Scales are computed on the middle latitude of each chart, or on the middle latitude of a series of charts.

Buildings - A prominent building may be shown by a landmark symbol with descriptive note (See L-63).

Shoreline is the line of Mean High Water, except in marsh or mangrove areas, where the outer edge of vegetation (berm line) is used. A heavy line (A-9) is used to represent a firm shoreline. A light line (A-7) represents a berm line.

Heights of land and conspicuous objects are given in feet above Mean High Water, unless otherwise stated in the title of the chart.

Visibility of a light is in nautical miles for an observer's eye 15 feet above water level.

Buoys and Beacons - On entering a channel from seaward, buoys on starboard side are red with even numbers, on port side black with odd numbers. Lights on buoys on starboard side of channel are red or white, on port side white or green. Mid-channel buoys have black-and-white vertical stripes. Junction or obstruction buoys, which may be passed on either side, have red-and-black horizontal bands. This system does not always apply to foreign waters. The dot of the buoy symbol, and the small circle of the light vessel and mooring buoy symbols and the center of the beacon symbol indicate their positions.

Improved channels are shown by limiting dashed lines, the depth, month, and the year of latest examination being placed adjacent to the channel, except when tabulated.

U. S. Coast Pilots, Sailing Directions, Light Lists, Radio Aids, and related publications furnish information required by the navigator that cannot be shown conveniently on the nautical chart.

U. S. Nautical Chart Catalogs and Indexes list nautical charts, auxiliary maps, and related publications, and include general information (marginal notes, etc.) relative to the charts.

A glossary of foreign terms and abbreviations is generally given on the charts on which they are used, as well as in the Sailing Directions.

Charts already on issue will be brought into conformity as soon as opportunity affords.

G. Ports and Harbors

1		Anch.	Anchorage (large vessels)
2		Anch.	Anchorage (small vessels)
3		Hbr.	Harbor
4		Hn.	Haven
5		P.	Port
6		Bkw.	Breakwater
6a			Dike
7			Mole
8			Jetty (partly below MHW)
8a			Submerged jetty
(8b)			Jetty (small scale)
9		Pier	Pier
10			Spit
11			Groin (partly below MHW)
12			Anchorage prohibited (See P-25)
13	Spoil Area		Spoil ground
(13a)	Dumping Ground		Dumping ground
14		Fsh. stks.	Fisheries; Fishing stakes
14a			Fish trap; Fish weirs (actual shape charted)
14b			Duck blind
15			Tunny nets (See G-14a)
15a	Oys	Oys.	Oyster bed
16		Ldg.	Landing place
17			Watering place
18		Whf.	Wharf
19			Quay
20			Berth
20a	(14)		Anchoring berth
20b	3		Berth number
21	•	Dol.	Dolphin
22			Bollard
23			Mooring ring
24			Crane
25			Landing stage
25a			Landing stairs
26		Quar	Quarantine
27			Lazaret
28		Harbor Master	Harbor master's office
29		Cus Ho	Customhouse
30			Fishing harbor
31			Winter harbor
32			Refuge harbor
33		B. Hbr.	Boat harbor
34			Stranding harbor (uncovers at LW)
35			Dock
36			Dry dock (actual shape on large-scale charts)
37			Floating dock (actual shape on large-scale charts)
38			Grid iron, Careening grid
39			Patent slip; Slipway; Marine railway
(39a)		Ramp	Ramp
40			Lock (point upstream)
41			Wet dock
42			Shipyard
43			Lumber yard
44	Health Office		Health officer's office
45			Hulk (actual shape on lrg scale charts) (See O-11)
46	PROHIBITED AREA	PROHIBITED AREA	Prohibited area
47			Anchorage for seaplanes
48			Seaplane landing area
49	Under construction		Work in progress
50			Under construction
(51)			
(52)			
(53)			
(54)			
(55)			
(56)			
(57)			
(58)			

K. Lights (continued)

69	(U)	*Unwatched light*
70	Occas	*Occasional light*
71	Irreg	*Irregular light*
72	Prov	*Provisional light*
73	Temp	*Temporary light*
(73a)	D. Destr	*Destroyed*
74	Exting	*Extinguished light*
75		*Faint light*
76		*Upper light*
77		*Lower light*
78		*Rear light*
79		*Front light*
80	Vert	*Vertical lights*
81	Hor	*Horizontal lights*
(82)	VB	*Vertical beam*
(83)	RGE	*Range*
(84)	Exper	*Experimental light*
(85)		
(86)		
(87)		
(88)		
(89)		

L. Buoys and Beacons (see General Remarks)

1		*Position of buoy*
2		*Light buoy*
3	BELL	*Bell buoy*
3a	GONG	*Gong buoy*
4	WHIS	*Whistle buoy*
5	C	*Can or Cylindrical buoy*
6	N	*Nun or Conical buoy*
7	SP	*Spherical buoy*
8	S	*Spar buoy*
8a	P	*Pillar buoy*
(8b)	Chec	*Checkered buoy*
9		*Buoy with topmark (See L-70)*
10		*Barrel or Tun buoy*
(10a)		*Color unknown*
(11)	FLOAT	*Float*
12	FLOAT	*Lightfloat*
13		*Outer or Landfall buoy*
14	BW	*Fairway buoy (BWVS)*
14a	BW	*Mid-channel buoy (BWVS)*
15	"1"	*Starboard-hand buoy (entering from seaward)*
16	"1"	*Port-hand buoy (entering from seaward)*
17	RB RB	*Bifurcation buoy (RBHB)*
18	RB RB	*Junction buoy (RBHB)*
19	RB RB	*Isolated danger buoy (RBHB)*
20	RB G	*Wreck buoy (RBHB or G)*
20a	RB G	*Obstruction buoy (RBHB or G)*
21	Tel	*Telegraph-cable buoy*
22		*Mooring buoy (colors never carried)*
22a		*Mooring*
22b	Tel	*Mooring buoy with telegraphic communications*
22c	T	*Mooring buoy with telephonic communications*
23		*Warping buoy*
24	Q	*Quarantine buoy*
25	Explos Anch	*Explosive anchorage buoy*
25a	AERO	*Aeronautical anchorage buoy*
26	Deviation	*Compass adjustment buoy*
27	BW	*Fish trap buoy (BWHB)*
27a		*Spoil ground buoy*
28		*Anchorage buoy (marks limits)*
29	Private	*Private buoy (maintained by private interests, use with caution)*

R. Depth Contours and Tints

Feet	Fathoms
0	0
6	1
12	2
18	3
24	4
30	5
36	6
60	10
120	20
180	30
240	40

Feet	Fathoms
300	50
600	100
1,200	200
1,800	300
2,400	400
3,000	500
6,000	1,000
12,000	2,000
18,000	3,000

Or continuous lines, with values

s ——— (blue or black) ——— 100

S. Quality of the Bottom

1	Grd	Ground
2	S	Sand
3	M	Mud; Muddy
4	Oz	Ooze
5	Ml	Marl
6	Cl	Clay
7	G	Gravel
8	Sn	Shingle
9	P	Pebbles
10	St	Stones
11	Rk; rky	Rock; Rocky
11a	Blds	Boulders
12	Ck	Chalk
12a	Ca	Calcareous
13	Qz	Quartz
13a		Schist
14	Co	Coral
(14a)	Co Hd	Coral head
15	Mds	Madrepores
16	Vol	Volcanic
(16a)	Vol Ash	Volcanic ash
17	Lv	Lava
18	Pm	Pumice
19	T	Tufa
20	Sc	Scoriae
21	Cn	Cinders
22	Mn	Manganese
23	Sh	Shells
24	Oys	Oysters
25	Ms	Mussels
26	Spg	Sponge
27		Kelp
28	Wd	Seaweed
	Grs	Grass
29		Seatangle
(30)		
31		Spicules
32	Fr	Foraminifera
33	Gl	Globigerina
34	Di	Diatoms
35	Rd	Radiolaria
36	Pt	Pteropods
37	Po	Polyzoa
38		Cirripeds
38a		Fucus
38b		Mattes
39	fne	Fine
40	crs	Coarse
41	sft	Soft
42	hrd	Hard
43	stf	Stiff
44	sml	Small
45	lrg	Large
46	stk	Sticky
47	brk	Broken
47a		Ground (shells)
48		Rotten
49		Streaky
50	spk	Speckled
51	gty	Gritty
52		Decayed
53	fly	Flinty
54	glac	Glacial
55		Tenacious
56	wh	White
57	bk	Black
58	vi	Violet
59	bu	Blue
60	gn	Green
61	yl	Yellow
62	or	Orange
63	rd	Red
64	br	Brown
65	ch	Chocolate
66	gy	Gray
67	lt	Light
68	dk	Dark
(69)		
70		Varied
71		Uneven
(72)		
(73)		
(74)		
(75)		
(76)	♈	Fresh water springs in sea-bed

OVERSIZE FOLDOUT(S) FOUND HERE IN
THE PRINTED EDITION OF THIS VOLUME
ARE FOUND FOLLOWING THE LAST PAGE
OF TEXT IN THIS MICROFICHE EDITION

SEE FOLDOUT NO. 5 and 6

Defendant's Exhibit H

PREFACE

This publication, Sailing Directions for the West Coasts of Spain, Portugal, and Northwest Africa, and Off-Lying Islands, is the sixth edition of Pub. 51. It is not a new edition in the usual sense, but a consolidation of the previous edition and supplementary corrective data available in the Oceanographic Office to February 16, 1952, including Notice to Mariners No. 7 of 1952.

The principal sources examined in the preparation of this edition are:

West Coasts of Spain and Portugal Pilot, Admiralty, London, 1934, with supplement to September 18, 1941.

Africa Pilot, Part I, Admiralty, London, 1939, with supplement to February 12, 1941.

Derrotero de las Costas de Espana y Portugal, San Fernando, 1932, with supplement to February 1, 1936.

Roteiro da Costa de Portugal, Part I, Lisbon, 1939.

Supplement No. 13, 1936 to Derrotero de la Costa Occidental de Africa, Madrid, 1923.

Instructions Nautiques, Ocean Atlantique Est, Cote Ouest d'Afrique, Paris, 1932, with supplement to November 1, 1939.

Reports from United States naval vessels.

Reports from officers of the Merchant Marine.

Information furnished by United States consuls.

Charts, light lists, tide tables, and various documents in the possession of the Department.

In this publication the bearings and courses are true and are expressed in degrees from 000° (north) to 360°, measured clockwise.

The directives "steer" or "make good" a course mean, without exception, to proceed from a point of origin along a track having the identical meridional angle as the designated course. Vessels following the directives must allow for every influence tending to cause deviation from such track, and navigate so that the designated course is continuously being made good.

Bearings limiting sectors of lights are toward the light.

The directions of winds refer to the points from which they blow; of currents, the points toward which they set. These directions are true.

The variation of the magnetic compass and the annual rate of change may be obtained from the charts.

The geographical positions (coordinates), which are given at intervals throughout the book, are approximate only and are intended to facilitate reference to the charts.

The charts quoted are the largest scale charts of the locality on issue by the Oceanographic Office. For a graphic presentation of the charts covering the areas described in this volume see the Catalog of Nautical Charts and Publications.

Distances are expressed in nautical miles, 1 mile equaling 1 minute of latitude, or approximately 2,000 yards.

Distances of less than 1 mile are expressed in fractions of a mile or in yards.

Soundings are referred to the datum of the charts and are expressed in fathoms or feet.

Heights are referred to the plane of reference used for this purpose on the charts and are expressed in feet.

Light and fog signal characteristics are not described, and as a rule, light sectors are not defined; for these details the mariners should consult the Light Lists, which are published at intervals of about a year. Similarly, radio navigational aids and services are not described in detail, and the mariner is referred to H.O. Pubs. Nos. 117A, 117B, and 118 for a more comprehensive account.

Masters of vessels should seek from pilots, harbor masters and other local authorities the latest information relative to any special regulations in force in the particular locality visited.

Mariners are requested to notify the U.S. Naval Oceanographic Office, Washington, D.C. 20390, or any of its branch offices of errors discovered in this publication or of additional matter considered appropriate for insertion.

Short corrections, formerly used to maintain this publication, are now being incorporated in the change pages to eliminate hand corrections by the user. If short corrections are found to be necessary in the future, a page of instructions for their use will be furnished at the time of publication.

The only port is Sidi Ifni, which is also the capital.

1-10 MAURITANIA has a coast line extending from Spanish Sahara to Senegal. The surface consists of a central massif surrounded by a series of plains and low plateaus with parallel rows of sand dunes. The greater part is desert. The only river system is that of the Senegal which forms the southern boundary of the republic; it is navigable for a distance of about 500 miles at high river. Most of the coast is open to the westward; Port Etienne—Point Central, in Levrier Bay, is the principle port complex.

The republic has an area of about 418,810 square miles, and had a population of about 1,000,000 in 1961.

Communication.—French steamers maintain a service between Europe and Mauritania. There is a radio station at Port Etienne. Submarine cables extend from Dakar, in Senegal, to Morocco, France, Brazil and Sierra Leone.

Currency, weights, and measures.—The French systems of currency, weights, and measures are used.

The standard time of Mauritania is that of the meridian of Greenwich.

1-11 SENEGAL, the region between Mauritania and Portuguese Guinea, is an independent republic. The portion north of the Gambia River is a sandy plain, generally arid but producing luxuriant pasture after rains. South of the Gambia is the fertile valley of the Kasamanze River. The southeastern part of Senegal is a compact mountainous district traversed by fertile valleys. The principal rivers are the Senegal, forming the northern boundary, the Kasamanze, and the Salum. The coast is generally low and skirted by a shore bank which is wide in places; the northern part is arid and skirted by sand dunes, but farther south it is marshy and covered with luxuriant vegetation. The principal ports are St. Louis, Dakar, and Rufisque.

Senegal has an area of 76,000 square miles, and had a population of about 3,400,000 (1965).

For communication, currency, weights, measures, and standard time, see under Mauritania.

1-12 GAMBIA, a sovereign state within the British Commonwealth, consists of a strip of territory on each side of the Gambia River, and lies entirely in the valley of that river. It is divided into two regions: a plain in the west, and a low plateau in east, both covered with grass and clumps of trees and thick forests in places. There are large marshy areas, flooded during the rainy season. Bathurst, at the entrance to the river, is the only seaport.

Gambia has an area of about 4,000 square miles and a population of 315,486 (1963).

Communication.—Steamers from Liverpool call every 2 weeks. There is also steamship service to America. Submarine cables extend to Cape Verde Islands, Portuguese Guinea, and Sierra Leone. There is a radio station at Cape St. Mary.

Currency.—West African coinage is in use; there are silver and alloy coins of 3 and 6 pense and 1 and 2 shillings, nickel coins of 0.1, 0.5, and 1 penny, and notes of 1, 2, 10, and 20 shillings and 5 pounds.

Weights and measures.—Imperial weights and measures are in general use.

Holidays.—The following holidays are observed: January 1, Good Friday, Easter Monday, May 24, June 9, July 14, and December 25.

The standard time in Gambia is that of the meridian of Greenwich.

1-13 PORTUGUESE GUINEA, lying between Sengal and the Republic of Guinea, is a Portuguese overseas territory. The greater part is lowland, and only in the southeastern extremity does the elevation exceed 600 feet. The coastal region is very low and swampy, is cut up by numerous river channels, and is fronted by the Bijouga Islands, which have been formed by the silt carried down by the rivers. The principal rivers are the Jeba and the Cacheu, both of which are

navigable for a considerable distance. Bissao is the principal port.

The territory has an area of 13,944 square miles, and a population of 519,229 (1960).

Communication.—A Portuguese steamer runs monthly from Bissao to Lisbon, and a French steamer runs monthly to Dakar. A submarine cable runs to Gambia. The principal towns are connected by telegraph. There are radio stations at Bubaque, Bissao, and Bolama.

Currency, weights, and measures are similar to those used in Portugal.

The standard time of Portuguese Guinea is that of the meridian of 15° west or 1 hour slow of Greenwich time.

1-14 REPUBLIC OF GUINEA has a coast line extending from the boundary of Portuguese Guinea to that of Sierra Leone. The coastal region is a flat strip of lowland, extending inland to the sandstone hills at the edge of the plateaus leading up to Futa Jallon, a vast oval plateau in the central part of the colony. To the southeastward is a succession of great plains. A chain of mountains extends along the frontiers of Sierra Leone and Liberia. The greater part of the coast is low and is fronted by a shore bank.. Conakry is the principal Port.

The republic has an area of 96,865 square miles, and had a population of about 3,000,000 in 1960.

For communication, weights, measures, and standard time see under Mauritania.

Currency.—The Guinea franc replaced (1960) the French colonial African franc on a parity basis. The Guinea franc is the sole legal tender and is for internal circulation only.

Holidays.—The holidays observed are: Independence Day September 28, Proclamation of the Republic October 2, Feast of Ramadan, Birthday of Mohamed, Feast of Tabaski, Easter Monday, Christmas Day, New Year's Day, and Assumption Day.

The standard time of Guinea is that of the meridian of Greenwich.

1-15 SIERRA LEONE, between the Republic of Guinea and Liberia, is an independent republic. The northern part is a confused mass of hills and plateaus, 800 to 3,000 feet in elevation. The southern part is an undulating plain that slopes toward the sea. Along the coast is a level strip, except for the Sierra Leone, which is mountainous. The principal rivers are the Great Skarcies, Sierra Leone, and Sherbro; they are navigable for some distance. The principal ports are Freetown and Sherbro.

The republic has an area of about 28,000 square miles, and an estimated population of about 2,513,000 (1969).

Communication.—There is a regular steamship service to Liverpool. A railroad line extends into the interior. Submarine cables connect the colony with Guinea, Gambia, Ascension Island, and Ghana. Telegraph lines connect the principal towns. There is a radio station at Freetown.

Currency.—The monetary unit is the Leone, which is divided into 100 cents.

Weights and measures.—British weights and measures are used.

Holidays.—The holidays observed are: Christmas Day, Boxing Day– December 26, New Years Day, Good Friday, Easter Monday, Id-el-Fitr-unfixed Mohammedan Feast, Whit Monday-unfixed, Empire Day-March 29, Queen's Birthday-April 23, and Id-el-Adha-unfixed Mohammedan Feast.

The standard time of Sierra Leone is Greenwich Mean Time.

1-16 LIBERIA.—The Republic of Liberia lies between Sierra Leone and the Ivory Coast. It is a broken mountainous country, whose surface gradually becomes lower to the southwestward. A comparatively level strip of land borders the coast. The shore is generally low, sandy, and narrow, and is backed by marshes and extensive grassy plains. The principal port and capital of the country is Monrovia.

The country has an area of about 43,000 square miles, and a population of 1,016,000 (1962).

Communication.—There is frequent steamship communication between Liberian ports and other West African ports and ports of Europe. There are submarine cables to

Guinea, Ivory Coast and Brazil.

Currency.—Liberian dollars are used and there are also Liberian silver coins of 50, 25, and 10 cents and copper coins of 2 and 1 cent.

Weights and measures.—The metric, Imperial, and United States systems are all in use. Efforts are being made to enforce one system, but so far it is not certain which one will be chosen.

Holidays.—The holidays observed are January 1 and 7, February 11, second Wednesday in March, second Friday in April, April 15, May 15, July 26 and August 24, first Thursday in November, and December 1 and 25.

The standard time of Liberia is that of the meridian of 11° west, or 44 minutes slow of Greenwich time.

1-17 PILOTAGE—Spain.—Pilotage is generally compulsory for merchant vessels over 50 tons in Spanish ports. Foreign naval vessels are exempt from taking a pilot in Spanish ports, and they are not required to pay pilotage dues unless a pilot is employed.

If possible, they will be directed by signal where to anchor, but if this can not be done they will have to shift to the position required.

In any navigable river in which pilotage is compulsory for merchant vessels it shall also be so for naval vessels.

The pilots cruise off the ports in boats, or will come out when the pilot signal is made. Steam pilot vessels are used at some ports.

Portugal.—Most Portuguese ports have pilotage service.

1-18 BUOYAGE—Spain.—The lateral system of the Uniform System of Buoyage is used on the coast of Spain and comprises all marks, fixed or floating, especially buoys and beacons of all kinds which serve to indicate known dangers, or the limits of channels practicable to navigation.

The term starboard hand means the right hand side, and the term port hand means the left hand side when approaching from seaward. In channels which are open to the sea at both ends, the more westerly end is considered to be the seaward entrance for this system.

Starboard hand marks are conical or perch. The former are painted black or in black and white checkers, and are surmounted by a cone, point up. The latter are painted black, or the upper half white and the lower black, and are surmounted by a broom, point up. Lights, if shown, are green showing odd numbers commencing from seaward.

Port hand marks are cylindrical or perch. The former are painted red or in red and white checkers, and are surmounted by a cylinder of the same color. The latter are painted red, or the upper half white and the lower red, and are surmounted by a broom, point down. Lights, if shown, are red showing an even number of flashes or occultations. When forming one of a series, port hand marks are inscribed with even numbers commencing from seaward.

To indicate the entrance to a port or mouth of a river, pillar buoys, painted in black and white vertical stripes, are used. The topmark, if used, is a black "X", and if lighted a flashing white light is shown.

Separation and junction marks are spherical and painted in red and white horizontal bands if the principal channel lies to the starboard, or if the channels have equal importance. If the principal channel lies to port, the buoy is painted in black and white horizontal bands. Topmarks are as follows:

(a) If the principal channel lies to starboard: —
Separation buoy — A red cylinder.
Junction buoy — A red T.

(b) If the principal channel lies to port: —
Separation buoy — A black cone, point up.
Junction buoy — Two black cones, bases together.

(c) If the channels are of equal importance: —
Separation buoy — A red sphere.
Junction buoy — A red cross.

If the marks are perches, a sphere will be carried below each of the topmarks described

above. If the buoys are lighted, the lights will be red or green and as distinct as possible from others in the vicinity.

Note.—In the preceeding text, separation mark is defined as the mark at the seaward end of a middle ground or at the bifurcation of a channel when approaching from seaward. Junction mark is defined as the mark at the inner end of a middle ground or at the junction of two channels.

Marks in the center of a channel indicate the deep part of the fairway, independent of any marking at the sides. These are pillar buoys, painted in red and white vertical stripes surmounted by two red cones, points together, and should always be left to port. If lighted they exhibit red flashing lights.

Isolated danger marks are spherical, painted in wide black and red horizontal bands, separated by a narrow white band and surmounted by a red or black sphere; perches, similarly marked, may also be used.

Marks, indicating a danger projecting from the coast which should be passed to the seaward, are painted black; if lighted, they show a white or green light.

Wreck marks are painted green and inscribed with the letter "W" or the word "Naufragio".

If the mark is to be left to starboard the buoy is conical, surmounted by a green cone, and if lighted, exhibits an odd number of white flashes. If a perch is used the lower part is painted black.

If the mark is to be left to port the buoy is a can, surmounted by a green cylinder, and if lighted, exhibits an even number of white flashes. If a perch is used the lower part is painted red.

If the mark can be left on either side the buoy is spherical, surmounted by a green sphere, and if lighted, exhibits a white occulting light.

If the wreck is marked by several light buoys they will have different periods.

A quarantine anchorage is marked by an unlighted yellow conical buoy or spar.

Spoil ground and sewer outfalls are marked by conical or spar buoys, the upper part painted yellow and the lower part black; if lighted they may exhibit any kind of light, depending upon the colors of other lights in the vicinity.

Areas used for exercises by land, sea, or air forces are marked by conical or spindle buoys, painted white with two blue vertical stripes which cross at right angles on top of the buoy, and which, when viewed from the air, appear as a blue cross on a white ground; the letters "ZP", indicating "Zona Peligrosa" are also painted on top of the buoy.

1–19 Portugal.—The following uniform system has been adopted for the colors of buoys and beacons in the ports, harbors, and channels on the coast of Portugal and adjacent islands:

Buoys and beacons, which must be left on the starboard hand when approaching from seaward, are conical, painted black, and surmounted by a black cone, point up; they are inscribed in white even numbers commencing from seaward.

Buoys and beacons, which must be left on the port hand when approaching from seaward, are can-shaped, painted red, and surmounted by a red cylinder; they are inscribed in white odd numbers commencing from seaward.

Isolated danger marks are painted in black and red bands and are surmounted by a red ball.

Wreck marks and marks indicating submarine telegraph cables are painted green; the latter are inscribed with the letter "T".

Marks indicating the seaward end of a middle ground or a bifurcation of a channel when approaching from seaward, are painted in black and white bands and are surmounted by a diamond.

Marks indicating the inner end of a middle ground, or the junction of two channels, are painted in red and white bands and are surmounted by a diamond.

Green and white lights must be left on the starboard hand, and red lights must be left on the port hand when entering a channel from seaward.

The surge within the harbor is very strong, and vessels have difficulty in keeping secured to the quays.

Repairs.—Only small repairs can be effected.

Supplies.—Fresh and canned provisions are available in limited quantities. Water may be obtained at the pipeline berth, at the oil quay, or from a barge. Fuel oil is available at the oil quay.

Communication.—Fedala is connected to the railroad and telegraph systems of Morocco. There is steamship communication with other African ports, Europe, and United States.

9-36 Coast.—From Cape Fedala the coast trends southwestward for 12 miles to Casablanca, and then turns westward for 3 miles to Point El Hank. In the vicinity of Wadi el Mella about 1 mile southwestward of Cape Fedala, the land is marshy between the shore and the nearest range of hills. Within this coast are a few tombs, of which Sidi Mumen, on a 377-foot hill 3½ miles southeastward of Casablanca Light, has the appearance of three houses.

About 4 miles southwestward of Fedala there is a conspicuous rock in the shape of a wrecked vessel. A house with a tower stands near the coast about 5½ miles southwestward of Cape Fedala Light.

9-37 Point El Hank (Cape Dar el Beida) (*33°37′ N., 7°39′ W., H. O. Charts 3776 and 3777*) is the northern extremity of a promontory. A reef and shoal water extends in a northerly direction from the point; the 3-fathom curve lies ½ mile off and the 6-fathom curve about 1 mile off. The shore eastward of the point is also fringed by reefs and shoal water. A wreck lies sunk about ½ mile northward of Point El Hank.

Lights.—A light is exhibited on Point El Hank.

An aviation light is exhibited about 3 miles southward of the above light.

Fog signal.—A fog signal is made on a siren at Point El Hank.

A radiobeacon is operated in conjunction with the fog signal.

9-38 Measured distance.—A measured distance of 7,102 yards is located to the eastward of Casablanca. The eastern markers consist of a black disc on a white house, about midway between Fedala and Casablanca, in range with a beacon about 2½ miles south-southeastward. The western markers are a water tower, about 1 mile eastward of Table d'Aukasha; in range with Sidi Mumen, a tomb about 2¾ miles south-southeastward. The course is maintained by keeping the light on Point El Hank bearing 235° ahead or 055° astern.

9-39 THE HARBOR OF CASABLANCA, situated about midway between Point El Hank and Table (d'Oukacha) d'Aukasha, is an artificial harbor sheltered northward and eastward by a combination of breakwaters and moles. Jetee Delure (Jetee Moulay Youssef), a mole extended by a breakwater which shelters the port northward, extends about 2 miles northeastward from the western part of the city of Casablanca; the outer extremity of the breakwater is submerged for a distance of 400 yards and has depths of 1 1/2 fathoms increasing seaward to 5 1/2 fathoms. Jetee Transversale (Jetee des Phosphates), a mole which shelters the port eastward, extends about 3/4 mile north-northwestward between the shore and a short spur extending southeastward from the middle section of Jetee Delure. The entrance to the harbor, lying between the spur and the head of Jetee Transversale, is 690 feet wide and has a depth of 36 feet. A submerged protection wall, about 420 yards in length, lies about 170 yards off and parallel to the northern end and eastern side of Jetee Transversale.

Mole du Commerce, which parallels and lies about 700 yards westward of Jetee Transversale, divides the harbor into two parts or basins. Bassin Delpit (Bassin du Commerce) lies between Jetee Transversale and Mole du Commerce while Bassin Delande (Bassin du Tourisme) lies between Mole du Commerce and the head of the harbor. Bassin Delpit is divided by Mole Intermediaire (Mole des Agrumes); Bassin Delande is divided by Mole Chaix (Mole Tarik). A vessel of any length and draft up to 32 feet can be accommodated alongside in the inner harbor.

Landmarks.—The most conspicuous objects in the vicinity of Casablanca are Table d' Aukasha; the chimneys of the electrical works and the cement works, almost ¾ mile southwestward and 1¼ miles south-southwestward, respectively, from the flag staff on Table d' Aukasha; the grain elevator, a yellow stone building on Mole du Commerce;

and the radio masts of the radio stations.

Black Rock lies close offshore about 1¼ miles southwestward of Table d' Aukasha and is liable to be mistaken for this landmark.

Radar target.—It has been reported that the city of Casablanca is a good radar target at 26 miles under normal conditions.

Lights.—A light is shown on Table d'Aukasha; a radiobeacon is operated at the light. Black Rock Light is located on the shore a little over 1 mile southwestward from the flagstaff on Table d'Aukasha.

A light is shown from the head of the spur extending southeastward from close within the head of Jetée Delure.

A light is shown from each side of the entrance of the inner harbor.

A light is shown on the northwestern corner of Jetée Transversale.

Entrance range lights have been established at Casablanca. The front range light has been established on the outer portion of Jetée Transversale, 104 feet high, at Tour Nord. The rear range light is located about 875 yards 228° from the front light on the grain elevator and is shown from an elevation of 154 feet.

Buoys.—A lighted whistle buoy, equipped with a radar reflector, is moored close off the seaward extremity of the submerged section of the breakwater forming the outer portion of Jetee Delure.

A light buoy with a radar reflector is moored about 4 miles northeastward of Point El Hank.

A lighted buoy, equipped with a radar reflector, is moored about 5 miles northeastward of Point El Hank.

Wrecks—Shoals.—There are numerous wrecks and shoals on the approach to and within Casablanca Harbor.

A foul area has been reported 463 yards southward of the head of the spur, extending southeastward from close within the head of Jetee Delure.

9–40 This section has been deleted.

9–41 Anchorage.—Outside the harbor the bottom is nearly everywhere of sand and rock; the holding ground is poor, but a berth with good holding ground of sand and mud may be found in 18 fathoms northward of the elbow of Jetée Delure. The anchorage is partly sheltered by Point El Hank promontory from winds between south and west, but a westerly swell sets in. The anchorage is dangerous during heavy westerly or northwesterly swells which may set in without warning, especially from October to April.

Vessels normally anchor in the outer harbor, which may be considered to extend between Jetée Transversale and Table d'Aukasha. Depths range from 25 to 50 feet over a poor holding ground of sand over rock. Part of this anchorage is sheltered by the outer half of Jetée Delure, but sudden storms and heavy swells render it dangerous. Vessels should be constantly alert and be ready to put to sea at the first sign of bad weather.

There is also anchorage available in the inner harbor in depths of about 40 feet, sand or mud bottom. There are mooring buoys located in the inner harbor.

Prohibited anchorage.—In the immediate approach to the harbor is an area of prohibited anchorage indicated by dashed lines on the chart.

Anchorage is also prohibited, due to the existence of cables, in an area 110 yards on either side of a line connecting the head of Jetée Transversale and the head of the spur of Jetée Delure.

9–42 General information.—Casablanca Harbor is affected during bad weather by swells and surging seas, created by high winds and storms that may last 5 to 7 days. At such times mooring lines have been known to part, and vessels may be forced to stand out to sea. Fogs are prevalent during spring months, commencing in April. Shipping activities practically cease for the duration of these fogs. The tides dominate the set of the currents, and a knowledge of them is especially important to navigation outside the harbor.

Arrival messages must be sent 48 hours and again 24 hours prior to arrival.

Tides.—The mean high-water interval at Casablanca is 1h. 27m.; the mean range is 7.1 feet and the spring range 9.5 feet.

9–43 Pilotage is compulsory between the

Table d'Aukasha and bounded on the north by the parallel of 33°37′ 40″ N. Pilots are available day and night.

The pilot signal is three long blasts on the whistle, in addition to those prescribed by the International Code.

Should bad weather and the state of the sea prevent the pilot from coming out, vessels may enter the port at their own risk and the pilot will await them in the shelter of Jetee Delure. At night vessels should not attempt to enter without a pilot as it is dangerous.

The pilot station is located at the head of the Jetee Transversale.

9-44 SIGNALS.—A signal station is located on the grain elevator on Mole du Commerce.

By day, one red flag at the top of the mast indicates that the state of the sea does not permit a pilot to go out, or the shore signal station may advise by lamp regarding pilot.

Vessels can communicate by day or by night by the International Code.

Storm signals.—Storm signals are displayed from the signal station and conform to those described in section 1-26. In addition, a black ball over a black cone by day, or three green lights shown vertically at night, indicate that a gale (force 5) is probable within 24 hours. A black ball over two black cones (points down) by day, or a red light shown vertically between two green lights at night, indicate that a gale (force 6) is probable within 24 hours.

Traffic signals are also displayed.

Lifesaving.—A motor lifeboat and a line-throwing apparatus are maintained at the port.

DIRECTIONS.—Vessels approaching from the westward should give Point El Hank a berth of 1 1/2 miles. Sidi Mumen in range with the northern side of Black Rock, bearing 117°, leads northward of the point in a least depth of 9 fathoms.

9-45 CASABLANCA (DAR EL BEIDA) (33° 36′ N., 7°37′ W., H.O. Chart 3777), occupying the land near the harbor, is the largest and most important port in Morocco, having a population of 1,177,000 (1961).

There is a United States Consulate General at Casablanca.

BERTHS.—The port has a total of about 17,500 feet of principal wharfage, the greater part of which has depths of over 29 1/2 feet alongside.

Jetee Delure, along the inner part of the inboard side, provides about 2,650 feet of berthing space with general depths of 23 to 36 feet alongside. This part of the breakwater is known as the navy yard and is for naval use only. Between the navy yard and the spur which extends south-southeastward to form the northern side of the harbor entrance, there are four stern-mooring berths. The eastern side of the spur provides one stern mooring berth for vessels handling explosives. A T-head pier, with 39 feet alongside the head, is located about 425 yards northeastward of the spur; bulk petroleum is handled.

Jetee Transversale has a total of about 3,300 feet of berthing space along its inboard side with general depths of 19 1/2 to 36 feet alongside. Coal and ore are handled along the inner half of the breakwater and phosphates are handled along the outer part. Vessels with up to 35 feet draft can berth at the phosphate pier. There are various cranes, bridge transporters, and specialized handling equipment available on the breakwater. Quay de Rive, between the roots of Jetee Transversale and Mole Intermedaire, is about 650 feet long, with 26 feet alongside and is equipped with six 5-ton cranes.

Mole Intermedaire has about 4,980 feet of berthing space with 27 to 36 feet alongside. There are 35 cranes of 5-ton capacity. Quay les Enfants (Quai Sidi Belyout), between the roots of Mole Intermedaire and Mole du Commerce, is about 650 feet long, with 24 feet alongside, and is equipped with six 5-ton cranes.

Mole du Commerce provides the principal berthing space in the harbor. Quai Delpit forms the eastern side of the mole and has nearly 2,700 feet of berthing space with depths of 25 to 28 1/2 feet alongside. Quai Tableau forms the northern side of the mole and provides 770 feet of berthing space with depths of 29 to 36 alongside. Quai Delande forms the western side of the mole and offers 1,860 feet of berthing space with depths of 29 to 33 feet alongside. The inner part of this quay is used for grain handling, and the remainder of the mole is used for general cargo. The quay is equipped with 28, 5-ton electric cranes.

Defendant's Exhibit J

(See opposite) ☞

OVERSIZE FOLDOUT(S) FOUND HERE IN THE PRINTED EDITION OF THIS VOLUME ARE FOUND FOLLOWING THE LAST PAGE OF TEXT IN THIS MICROFICHE EDITION

SEE FOLDOUT NO. 17

474a

FORM 194E

Defendant's Exhibit K

DATE 12/[illegible] LEAVING _____

VOYAGE 478 ARRIVING CASABLANCA

SIGNAL	TIME	SIGNAL	TIME
1530	Arrived B/W	115° @ 3.2 mi.	
1537	X		
1541	⊢		
1545	⊢	ARRIVED	
1550	⊢⊢		
1551	X		
1552	⊢⊢		
[illegible]	X		
1555+	⊢⊢	Pilot Boat [illegible]	
1559	Pilot Blowing for Stop		
1602	X		
1602	⊢		
1605	X		
1605+	⊢⊢		
1611	⊢		
1618+	X		
~~1703~~	1703 SBE		
⊢⊢	1705		

ENGINE ROOM CLOCK SLOW FAST MINUTES

SIGNED _____

CONVENTIONAL SIGNS TO BE USED IN LOGGING ENGINE ROOM BELLS

▲ Stand by O Stop | Slow Ahead || Half Ahead ||| Full Ahead

| Slow Astern || Half Astern ||| Full Astern

475a

FORM 15-E

Defendant's Exhibit M

DATE 2/26/72 LEAVING

VOYAGE 78 ARRIVING CASABLANCA

ARRIVED @ 1530

SIGNAL	TIME	SIGNAL	TIME
STBY -			1556 ½
C - 9180 4070		X	1602
N.W.M. -	1118		1602 ½
MANU SPEED		X	1605 ½
X	1527		1606 ½
	1543		1611 ½
X	1548	X	1618 ½
	1549 Ship Aground	STBY	1704
X	1549		1706
	1549 ½		1715 ½
	1549 ½	X	1717 ½
	1550		1718 ½
X	1550		1721 ½
	1550 ½		1724 ½
X	1552	X	1725
	1553		1726
X	1555 ½	X	1729 ¼
X	1555 ¾		1730 ½

ENGINE ROOM CLOCK SLOW FAST MINUTES

SIGNED [signature]

CONVENTIONAL SIGNS TO BE USED IN LOGGING ENGINE ROOM BELLS

▲ Stand by ○ Stop | Slow Ahead || Half Ahead ||| Full Ahead

| Slow Astern || Half Astern ||| Full Astern

Defendant's Exhibit R

(See opposite) ☞

OVERSIZE FOLDOUT(S) FOUND HERE IN
THE PRINTED EDITION OF THIS VOLUME
ARE FOUND FOLLOWING THE LAST PAGE
OF TEXT IN THIS MICROFICHE EDITION

SEE FOLDOUT NO. 9

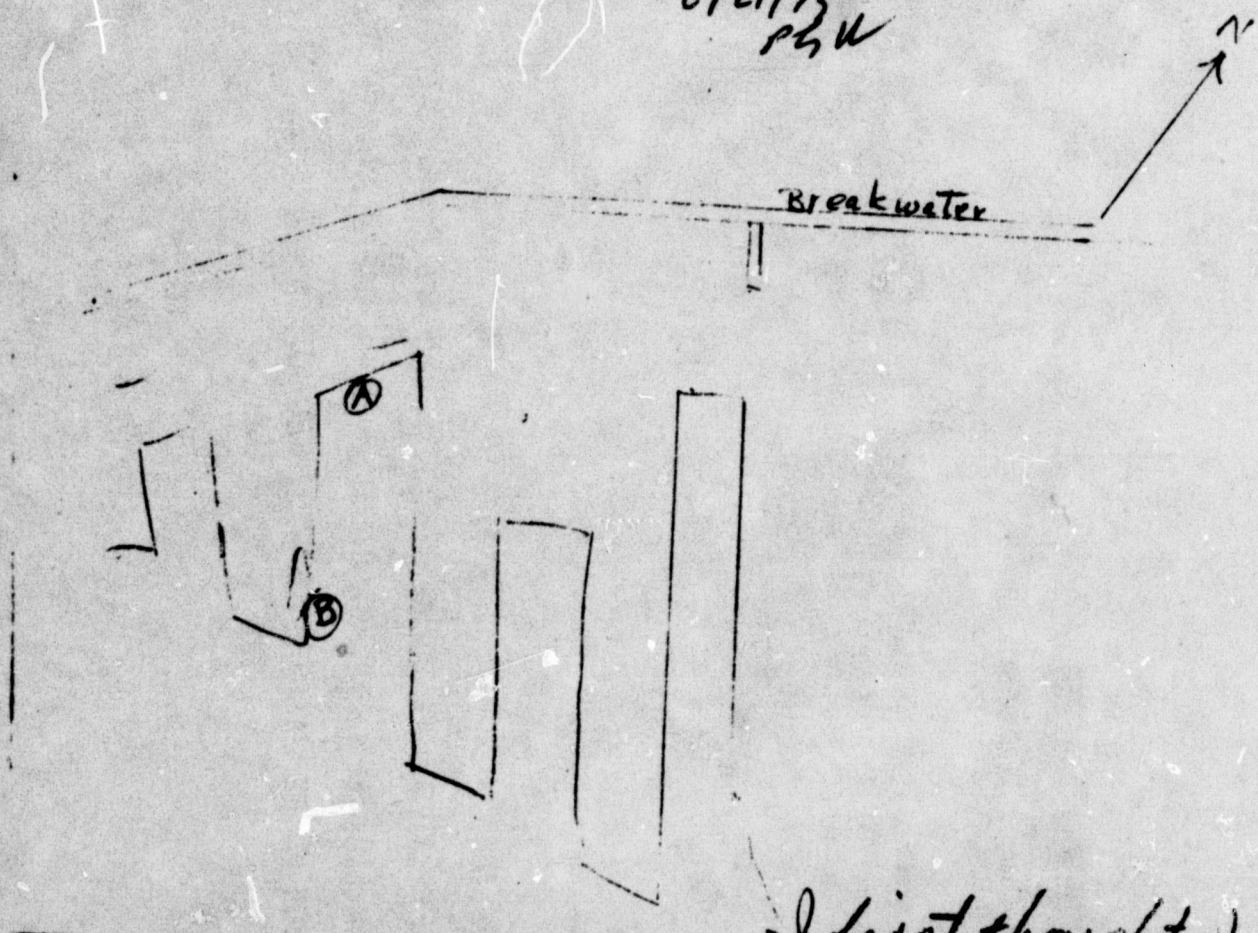
Sit

ship lightered at A
shifted to elevator at B

RECEIVED
'72 MAR 23 AM 9 46
COSTA MARINE, INC.

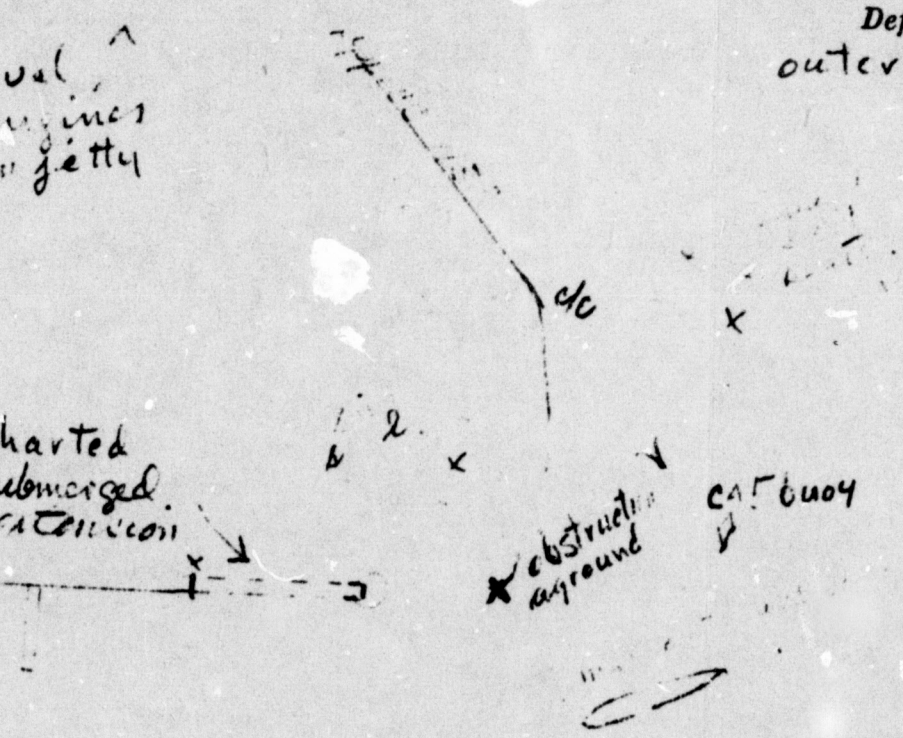
1530 arri
and stop
1.6 miles

Lifts X S for wl
6/21/73
pgh



I first thought I wa
as being too far N end of breakwater x Ch
diver has reported all damage being on
then most of damage should be on the
to the buoy than we were to the end of the

Defendant's Exhibit S



originally-planned to pass close by buoy CA 5 but had to c/c to pass astern of small outbound vessel.

s aground at "O" but radar showed vessel
art #NO512222 shows 9 fathom at x. The
port side. If ship was aground at O
th side. While aground, we were closer
e breakwater.

RCA Marine Telegram

Received aboard S/S POTOMAC
Via CNP At 1515GMT
Date 2/26/72

MSG NR 2 CASABLANCA CK25 261454

MASTER POTOMAC CNP

DESPITE DELAY DOING BEST FOR YOUR BERTHING STOP PLEASE
IMMEDIATELY CONTACT PILOT THROUGH CASABLANCA RADIO PHONE
755 15 REPEAT 755 15 STOP REGARDS

TEREM

480a
Defendant's Exhibit V-3

RCA Marine Telegram

Received aboard S/S POTOMAC
Via CNP At 1310GMT
Date 2/26/72

MSG NR 2 CASABLANCA CK16 261157GMT
MASTER POTOMAC CNP

BERTHING UPON ARRIVAL PLEASE COME CLOSER BUOY CA5
FOR ENABLING PILOT REGARDS

COMAGENCY

(Over)

481a
Defendant's Exhibit V-4

RCA Marine Telegram

Received aboard S/S POTOMAC
Via CNP At 1103GMT
Date 2/26/72

MSG NR 1 CASABLANCA CK15/49 261055GMT

MASTER POTOMAC CNP

BERTHING IMMEDIATELY ON ARRIVAL UNLESS LAST DECISION OF HARBOUR MASTER DEPENDING TIME ARRIVAL STOP PLEASE KEEP CONTACT AS FROM 1300 WITH PILOT STATION CHANNEL 12 VHF STOP PILOT BOARDING BUOY CA5 STOP DISCHARGING COMMENCING ON ARRIVAL WITH 4 GANGS STOP WORKING SUNDAY 0700/1500 STOP REGARDS

TEREM

(Over)

482a
Defendant's Exhibit V-5

RCA Marine Telegram

Prefix MSG Sent No. 2 Words 19 Radio Sent to CNP by JEC Time sent 1313 GMT

All telegrams are accepted subject to the rates, rules, and regulations set forth in the applicable tariff of RCA Global Communications, Inc. on file with the F.C.C.

Office of origin S/S POTOMAC Date filed 2/26/72 Time filed 1315 GMT Coastal station via CNP

Charges
Coast
Ship
Landline
Other
Total
Insist upon receipt.

TEREM CASABLANCA

ETA 1530 STOP IF TOO LATE FOR DOCKING REQUEST BEST ANCHORAGE AREA STOP REQUEST RADIO FREE PRATIQUE

(Over)

483a
Defendant's Exhibit V-6

RCA Marine Telegram

Received aboard S/S POTOMAC
Via CNP At 1915GMT
Date 2-24-72

MSG NR 4 CASABLANCA CK 85/84 241820GMT

MASTER POTOMAC CNP

ETA 2/26 16ØØ NOTED STOP EXPECT BERTHING AND COMMENCING DISCHARGING IMMEDIATELY ON ARRIVAL DEPENDING ON YOUR HOUR ARRIVAL STOP ABOUT 24ØØ TONS TO BE DISCHARGED BY CRANES/GRABS BEFORE SHIFTING SILOS BERTH STOP EXPECT OVERTIME WORK SUNDAY Ø7ØØ/15ØØ STOP REVERTING 2/26 BEFORE NOON WITH DEFINITE PROSPECTS STOP PRECISE(ADVISE?) IF OPENING HATCHES DONE BY CREW OR SHOREMEN STOP REGARDING BERTHING SAME IS NOT GUARANTEED IF VESSEL ARRIVES TOO MUCH LATE AFTER HIGH TIDE 1244 SO PLEASE DO BEST THANKS

TEREM

(Over)

484a
Defendant's Exhibit V-11

RCA Marine Telegram

Prefix MSG Sent No. 2 Words 52/51 Radio Sent to CNP by JEC Time sent 1312GMT

All telegrams are accepted subject to the rates, rules, and regulations set forth in the applicable tariff of RCA Global Communications, Inc. on file with the F.C.C.

Office of origin S/S POTOMAC Date filed 2/24/72 Time filed 1213GMT Coastal station via CNP

TEREM CASABLANCA

ANSWERING YOUR 2411Ø2 OUR BEST ETA 16ØØ TWENTYSIX COMAGENCY NOTIFIED STOP DEEPEST DRAFT THIRTYTHREE FEET FIVE INCHES NO SHIP NEEDS UNTIL LATER STOP REQUEST YOU PLEASE ADVISE SOONEST THE BEST ANCHORAGE AREA WHILE AWAITING ENTRY OR DO YOU ADVISE SLOWING TO ARRIVE SUNDAY BEFORE HIGH WATER STOP AWAITING ANSWER

Charges
Coast
Ship
Landline
Other
Total

Insist upon receipt.

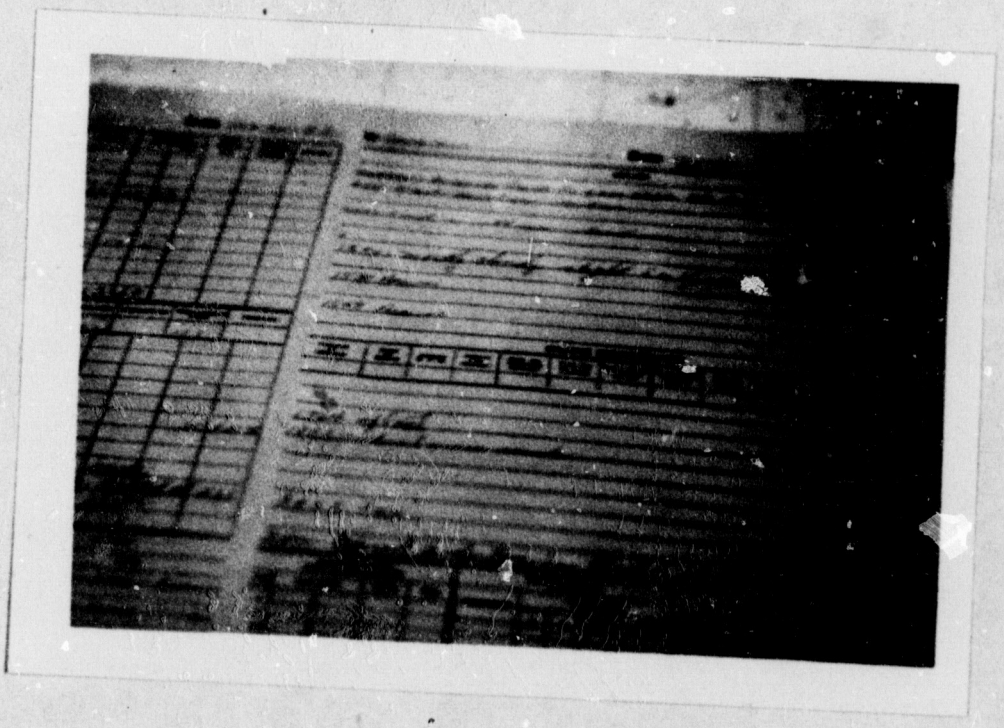
(Over)

485a
Defendant's Exhibit V-13

Defendant's Exhibit BB

(See opposite) ☞

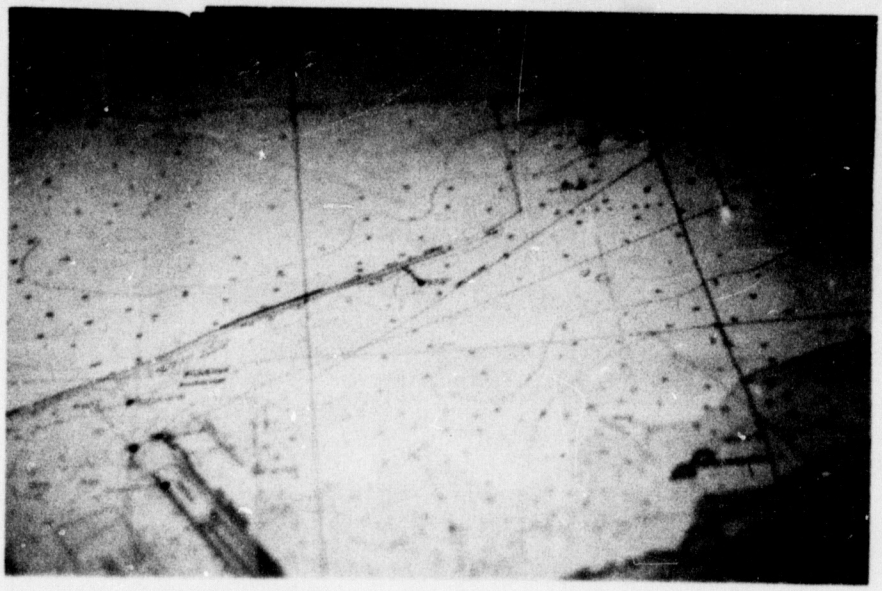
Defendant's Exhibit BB



Defendant's Exhibit CC

(See opposite) ☞

Defendant's Exhibit CC



Defendant's Exhibit DD

(See opposite) ☞

491a-495a
Defendant's Exhibit DD

RECEIVED
APR 23 1973
ADMR. & SHPG. SECTION
NEW YORK OFFICE

Mr. Janis G. Schulmeisters
U. S. Department of Justice
Admiralty and Shipping Section
26 Federal Plaza
Room 4048
New York, N. Y. 10007

Dear Sir:

Enclosed Please find the three Photographs that I promised to send to you. Number 1, is of the bell book showing the bells immediately before and after the grounding. Number 2, is of the bridge log book as I was ordered to fill it out and sign it on the day of the grounding. And, number 3 is a picture of the harbor chart with the two line fix showing the first position of anchorage and the multilined position showing the overnight position of the vessel, both after grounding.

I do hope that these photographs will be of some assistance and, I will try to make myself available to offer such further assistance as may be needed.

Sincerely,

Calvin C. Hunsiker Jr.
26316 20th Ave. So.
Kent, Washington 98031

Dept Hearings 24 DO Ltr
dtd 8/16/73

Defendant's Exhibit KK

(See opposite) ☞

OVERSIZE FOLDOUT(S) FOUND HERE IN THE PRINTED EDITION OF THIS VOLUME ARE FOUND FOLLOWING THE LAST PAGE OF TEXT IN THIS MICROFICHE EDITION

SEE FOLDOUT NO. 9 + 10

Defendant's Exhibit MM-1

LS No. 32348-F

Vizierial Order of February 20, 1967

(8 Hija 1355)

Concerning the Operation of Pilot Services in the Port of Casablanca

Chapter One

Compulsory Pilot Services

Article 1. The limits of the port of Casablanca are as follows:

West: The 7°37'10" West longitude meridian of the base of the Delure Jetty;

North: The 33°37'40" North latitude parallel;

East: The 7°33'50" West longitude meridian of the Table d'Oukacha.

In addition, one paragraph of the vizierial order of 1937 remains in effect.

Article 2. A captain entering the area of compulsory pilot services shall signal for a pilot immediately and shall maintain the signal until a pilot arrives.

Article 3. The captain shall facilitate the boarding of his vessel by the pilot answering his call and shall provide him the necessary means to approach and board his vessel as safely as possible. After the pilot has rendered his services the captain shall be similarly responsible for debarking him safely.

Article 4. The captain shall inform the pilot boarding his vessel of the vessel's draft, speed, and other sailing data.

Translation of Exhibit "A 5"

Defendant's Exhibit PP

GENERAL REMARKS

a. Paragraphs relating to any geographic subregion are easily located by inspection of the accompanying geographic locator. The number of the first page and paragraph in each area is listed.

b. Paragraphs preceded by a star (★) are of United States origin.

c. Courses and bearings are given in degrees clockwise from 000° to 360° true. Bearings of light sectors are toward the light.

d. The visibility of lights is usually, and never exceeds, the calculated distance at which they can be seen from a height of 15 feet above the level of the water when the elevation of the light is taken above the height datum of the largest scale chart of the locality. The luminous range is given when the light is not of sufficient intensity to be seen to the limit of its geographic range as determined by the height.

e. Temporary or preliminary information is sometimes published. The letter "T" following the paragraph number indicates that the information contained in the paragraph is of a temporary nature. The letter "P" following the paragraph number indicates that the information contained in the paragraph is of a preliminary nature. Mariners are warned that temporary discrepancies may exist between charted or published information and actual conditions. Deficiencies in aids to navigation and changes caused by dredging and construction operations are examples. Local area sources of information should be consulted wherever available.

f. Section II contains important information affecting the safety of navigation which was promulgated as radio navigational warnings (HYDROLANTS/HYDROPACS).

g. The U.S. Coast Guard Local Notice to Mariners should be consulted for marine information pertaining to the Intracoastal Waterway and other waterways and small harbors within the United States that are not normally used by oceangoing vessels.

h. The Naval Oceanographic Distribution Centers update N.O. Charts and Publications in accordance with the principles noted in paragraph (b) under Important Information. The date shown in the Notice to Mariners Stamp, affixed to the chart by a Naval Oceanographic Distribution Center, is the authority for determining the date through which the chart has been corrected. Corrections subsequent to that date must be obtained from the Notice to Mariners.

i. The date of this Notice to Mariners is the scheduled date of issue, which is approximately 10 days after the information is sent to the Government Printing Office.

REQUEST FOR CORRECTIVE INFORMATION

Mariners are requested to cooperate in the corrective maintenance of navigational charts and publications by reporting all discrepancies between published information and conditions actually observed or encountered, and by recommending appropriate additions, deletions, or improvements. A convenient reporting form is provided on the back cover of each Notice to Mariners.

Information affecting National Ocean Survey charts and publications, or concerning coasts and waters of the United States and its territories should be sent to the Director, National Ocean Survey. Deficiencies in navigational aids, either visual or electronic, on the coasts or waters of the United States or its territories should be reported to the nearest Coast Guard District Office. Suggestions regarding these aids should be sent to the Commandant, U.S. Coast Guard.

A list of the District or Field Offices of the above agencies is published annually in the Notice to Mariners. If local addresses are not known, reports may be sent directly to appropriate agency headquarters in the Washington area.

Defendant's Exhibit QQ

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

EMPIRE TRANSPORT, INC., as owners of the Steamship POTOMAC,

Plaintiff,

-against-

UNITED STATES OF AMERICA,

Defendant.

Deposition of VERNON W. HANSEN, taken by the Defendant, pursuant to agreement between the parties, at the offices of Messrs. Burlingham, Underwood & Lord, 25 Broadway, New York, N. Y., on Friday, December 15, 1972, at 2:00 p. m. before Walter Harris, a Notary Public for the State of New York.

MR. SMITH: Let's go on.

MR. SCHULMEISTERS: Reservation is made, in case we cannot finish this afternoon --

MR. SMITH: I don't know whether we can produce him again afterward if you can't finish him this afternoon.

MR. HANSEN: I have to be in Portland tomorrow

MR. SMITH: All right, let's go on with the documents.

Number one, the rough deck and smooth log which is the one and the same are here today. The deck and engine bell books and I am referring now to Mr. Schulmeisters' letter of October 1972. There is no ~~cause to take~~ course recorder graph, Chart 51222 on the SS POTOMAC, ~~Job~~ No. 222, Chart No. HO-77 which is in use on board on the POTOMAC on February 26, 1972 is here today.

Chart No. 51220 is not here today and we are endeavoring to locate it if it is still in existence.

MR. SCHULMEISTERS: All right.

MR. SMITH: Item No. 6. There were no other charts on board the POTOMAC that can be dealing with Casablanca Harbor, by the British Admaralty Hydrographic or any equivalent hydrographic office.

received by the ship.

There were tide tables covering Casablanca issued by the United States Agency, whichever one issued the tide tables.

MR. SCHULMEISTERS: Are they here?

MR. SMITH: No, they are not. You can't take those off of the ship.

MR. SCHULMEISTERS: All right.

MR. SMITH: The vessel was equiped with a Fathometer which was a submarine signal, which is the trade or brand name. There is no recording times and there is no record book in connection with it.

In connection with numbers thirteen, fourteen and fifteen, I would suggest that counsel question the Master on those certain items there with respect to all statements, letters, notes, schedules and that sort of thing, and copies of telegraph or radio messages, I would suggest you question the Captain on that.

MR. SCHULMEISTERS: Do you have any here?

MR. SMITH: No, I don't want to testify on the job, Mr. Schulmeisters.

importance that you have in one of those documents that is produced later on, if anything else is produced, then we will either bring the Captain back or arrange to take his further deposition wherever he might be.

MR. SCHULMEISTERS: All right, if it becomes necessary.

MR. SMITH: Well, from those particular items that develop out of the documents that unfortunately have not been produced today.

MR. SCHULMEISTERS: All right. We will go forward with this and let us hope that we can finish today.

MR. SMITH: All right.

MR. SCHULMEISTERS: Or at a reasonable time.

MR. SMITH: I am sure we can, Mr. Schulmeisters.

Off the record.

(Discussion off the record.)

V E R N O N W. H A N S E N, called as a witness having been first duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION BY MR. SCHULMEISTERS:

Q Captain, would you please state your full name

for the record?

A Vernon W. Hansen.

Q Where do you reside?

A 8515 Mount Olympus, Vancouver, Washington. My mailing address is 4777 North Vanderbilt, Portland, Oregon, 97203.

Q By whom are you presently employed, Captain.

A Empire Transport through Ogden Marine.

Q Why do you say through Ogden Marine?

A Well, Ogden Marine are the agents for the owners which is Empire Transport.

Q And the offices are located where?

A Pennsylvania Plaza. Number Two Penn Plaza

Q New York City?

A Yes.

Q Now, in what capacity are you employed?

A Ship's Master.

Q Any particular ship?

A SS POTOMAC.

Q Do you plan to rejoin the vessel?

A Yes.

Q When?

A I understand she will be back around Christmas

used to study?

THE WITNESS: That is one of the ones I studied when I got my original license.

Q You recognize Bowditch as a navigational authority?

A Yes, now.

Q You do?

A Yes.

MR. SCHULMEISTERS: I have another volume here, Mr. Smith, that same edition and I would like to mark that as Defendant's Exhibit A for identification.

MR. SMITH: Why do you want to mark it?

MR. SCHULMEISTERS: The Captain has recognized it as an authority in navigation.

MR. SMITH: Why can't we just refer to it as a 1958 edition of the American Practical Navigator? There is no reason to mark it. It is a well-known publication.

MR. SCHULMEISTERS: As long as you have no objection during the course of the litigation or at the time of trial, I submit that this book, American Practical Navigator by Bowditch is an authority on

can rely on at all times.

Q So as far as keeping the publications up to date, the second mate you had on board you said you don't think he was reliable?

A That's right. He was always there as a relief man.

Q Have you been to Casablanca before the voyage on February 28, 1972?

A No.

Q Was this the first time that you went to Casablanca?

A Yes.

Q You have never been there as a Master?

A Never in my life.

Q Never in your life at all?

A No.

Q What charts did you use when approaching Casablanca Harbor?

A Just a moment. HO-51220.

Q HO-51220?

A Yes.

Q Yes.

A And HO-51222.

I approached the harbor on that. All the rest of them are voyage charts. It is a choice of words, sir.

MR. SCHULMEISTERS: All right.

Q At what point, and I am speaking now in terms of distance, from the harbor of Casablanca would you say that you were approaching the Casablanca Harbor?

A (No response)

MR. SMITH: What do you mean by "approaching"?

MR. SCHULMEISTERS: I want to find that out.

THE WITNESS: Well, I am getting closer to a place, ever since we left the Bahamas, is that right? What do you mean by the word "approach"? I had stopped the vessel a mile and a half off. Now, I am approaching the place with caution and I am in a hurry to get there and the approach is right on the chart. I stopped the vessel and now I am approaching the harbor.

Q You are approaching within a mile and a half?

A Yes, it depends on what you mean by the word "approach" and that is my interpretation.

Q Your interpretation is a mile and a half.

MR. SMITH: The record shows what his

Q Did your local agent send you any messages concerning pilotage?

A Yes.

Q What did that message say in substance?

A Well, I don't know if it was a radio or a telephone message. He said the pilot would meet us as Buoy CA-5.

Q Buoy CA-5?

A Yes.

Q I have here a photostatic copy of Chart No. 51222.

MR. SMITH: Why do you say it is a photostatic copy of Exhibit D?

MR. SCHULMEISTERS: That is the condition that Mr. Smith has supplied to me.

MR. SMITH: A photostatic copy of Exhibit D.

MR. SCHULMEISTERS: Let us mark that as Defendant's Exhibit J for identification.

...(Above-mentioned document was marked Defendant's Exhibit J for identification.)...

Q Do you recognize Exhibit J, Captain?

A Yes.

Q What is it?

A Well, where do I draw the line from Tebia De'Aukasah to what line, bounded on the north between there and the line bounded on the north? It doesn't say what-- the sailing directions are very unclear on that point. It is incomplete.

Q You read this paragraph, re: Casablanca?

A Yes.

Q Did you draw a latitude line like this on your chart?

A Well, I noticed that it was north.

Q North of Buoy CA-5, you mean?

A Yes.

Q That would mean to you that pilotage was compulsory from a point north of Buoy CA-5?

A Yes.

Q In other words once you go south of this line you must have a pilot?

A Well, if the pilot is there.

Q Do you know if the pilot is there or did you have to wait for a pilot?

A Well, there was a swell coming and --

Q Well, please answer the question. Did you have to wait for a pilot?

A Well, no. In these cases, no. I explained earlier what the difference was. There was a swell and the pilot couldn't come out. The pilot was waiting in the lee of the breakwater.

Q You had never been to Casablanca before?

A No. On the previous ship they picked up the pilot.

Q What ship was that?

A A small freighter coming in, closer. We could see it from out there. There was no pilot coming out there to get him.

MR. SMITH: Indicating inside the breakwater.

THE WITNESS: Yes. Inside the breakwater that they picked up the pilot.

Q On Exhibit J you have a position marked "stop"; a position and the word, "stop". What does that represent?

A That is where I stopped the ship, one point six miles off the buoy.

Q Off the buoy?

A Yes, off the breakwater, yes. There was a -- we got it off of the end of the breakwater.

Q So that you have two lines drawn there on this chart, Exhibit J?

Q Did you study the sailing directions before you entered Casablanca?

A Yes.

Q I see there were certain blue marks and red marks on Exhibit H?

A Yes.

Q Did you make them?

A Yes.

Q I see here you have circled in blue, the words "Pilot Signal" and then underscored the words, "Three long".

A That means three long blasts.

Q Three long blasts?

A Yes.

Q Did you at any time give the signal to the pilot on February 26th, 1972?

A Yes.

Q Where was your vessel when you gave that signal?

A Well, half a mile off. There was no pilot out there and I blew the whistle.

Q Will you indicate by that blue pencil where your vessel was when you gave that signal?

Defendant's Exhibit QQ

W. Hansen

here.

A Yes.

Q What are these numbers nextto that?

A 1.6 miles.

Q What time would that be?

A Well, 1537.

Q So that this position would be at 1537?

A Well, it might have been arrival.

Q The bell book says, stopped at 1537?

A Yes.

Q So that this position is at 1537?

A Yes.

Q All right. Would you mark that, please, 1537?

A All right. 1537.

Q Prior to that, 1537 stop bell, what revolution was your vessel turning?

A Eight zero.

Q Eight zero revolutions per minute?

A Yes.

Q How long had she been going at 80 revolutions?

A About an hour.

Q About an hour?

A Yes. We are reconstructing this now.

A Revolutions per minute.

Q Revolutions per minute?

A Yes.

Q What does 80 revolutions per minute correspond to in maneuvering speed?

A Well, that is full speed.

Q Full speed ahead?

A Yes.

Q Or full speed astern?

A Yes.

MR. SMITH: This is what you get or expect to get. If your engine room telegraphs your position full speed ahead, is that right?

THE WITNESS: Right.

Q Now, 60 would be what?

A Half.

Q Half astern?

A Yes, half speed ahead.

Q Or to stern?

A Either. Well, I never get the same revolutions astern. You get ahead.

Q Ahead you get more or less.

A Well, full astern they are not going to give you

80 unless you give them a jingle or a blast.

Q How about half? Wouldn't they give you half ahead 60?

A Yes, that would be half.

Q Would they give you 60 on half astern?

A Yes.

Q Now, 40, what does that represent?

A That is slow ahead or slow astern.

Q What does 20 represent?

A That is dead slow ahead or astern.

Q You get the 20 revolutions on a dead slow, ahead or astern?

A Reasonably so, yes.

Q Or slow?

A Yes.

Q On slow you get the 40 ahead on the stern?

A Yes.

I would also like to say that when you are giving these different bells it takes time for them to answer the bells and going up and down, you know.

Q Now, approximately how long does it take them to answer a bell?

A Well, you can expect a response in thirty

Defendant's Exhibit QQ

Vernon L. Hansen 6.

seconds.

Q That ~~means that in thirty seconds your vessel's~~ propeller would be turning at a revolution that you had requested?

A No, it just takes that long to change and whatever it is necessary to do down in the engine room in order to get it. If you want a stern bell it takes them time to do that. It may take twenty or thirty or forty seconds, depending on what they have to do in the engine room.

Q Do you have an engine revolution counter on the bridge of the POTOMAC?

A Yes.

Q Do you look at it whenever you are maneuvering?

A Yes.

Q Did you look at it when you were going into Casablanca?

A Yes.

Q Did you find any discrepancy as shown by that engine revolution counter in the order that you had given?

A Yes. I think I had to telephone in and remind them of some revolutions.

~~Q When was that?~~

MR. SCHULMEISTER: All right, that is fine with me.

MR. SMITH: All right.

Q I am talking about now the area which corresponds to the area which has been marked position D and E and F on Exhibit J.

A Yes.

Q Now, Captain, look at this, please. Would you, with the tracing paper -- there has been some erasures on it, is that not true?

MR. SMITH: The chart speaks for itself.

Q Please answer the question.

A Yes.

Q Do you know who did the erasing on there?

A I think it was the mate that took the bearings. Well, I assumed that we must have been here on the end. That is, the end of the jetty. So I imagine he went and he erased that and I told him that --

Q Did you personally do any erasing on this chart?

A No, I didn't unless it was over here some place There are some out here, you know. The anchor bearings have been erased out there.

MR. SCHULMEISTERS: All right. Mark it 1734, Captain.

THE WITNESS: All right.

Q You have written 1734. The 26 stands for the date and the 1734 stands for the time?

A Yes, we were going to go right in.

Q All right. Now, Captain, what part of the vessel grounded first?

A The bow.

Q From what position were the bearings taken on the vessel?

A The stern.

Q That would be on the stern?

A Yes.

Q And that is the navigating bridge, is that correct?

A Yes, that's right.

Q Now, how far away from the bow is the house?

A Well, let me see? I would say 575. Just a moment. That would be 450 feet, roughly.

Q About 450 feet from the bow?

A Yes.

Q That is the navigating bridge?

A Yes, I read them.

Q Now, I am referring you to page 219 and the section 9-39, the harbor of Casablanca.

A Yes.

Q Does it have any reference to the length of the underwater extension of the breakwater?

A Well, the underwater extension of the breakwater is submerged for a distance of 400 yards.

Q Four hundred yards?

A Yes.

Q Did you read that before you steered your vessel into the harbor at Casablanca?

A Yes.

Q Did you check that distance out there with your chart?

A No, I assumed that it was accurate on the chart

Q Now, would you mark that distance, please, on the chart -- would you mark the 400 yards distance, Captain, from the end of the visible breakwater?

A Just a moment.

Q Where does the 400-yard mark go?

A Almost on the original bearing. Bearing D. The bearing labelled D.

Q Almost on that dot, is that right?

A Yes.

MR. SMITH: Let us mark that with a red pencil.

MR. SCHULMEISTERS: Let us not obliterate the dot, please. Leave the dot there.

THE WITNESS: All right.

MR. SMITH: All right.

MR. SCHULMEISTERS: Wait a minute, I believe we have position I.

Q Now, Captain, had you measured that distance on the chart would you have taken your vessel on the curve that is now shown approximately on Exhibit J?

A Well, I had it marked D and I would have come closer to the buoy had I measured it.

Q Why did you not measure it, Captain?

A Because -- Just a moment. I have to assume that the charts are correct, because there is not enough time to correct all charts. I have to assume the chart is correct. The experts have made the charts, and I have to rely on somebody. You have to admit yourself that the year isn't long enough to check or correct everything out on the chart.

A Well, I can't remember the agent's name over there. They are the Morocco Steamship Agents. Their name is Moroccan Marine Company. It is French.

Q With whom did you have discussions there?

A Well, with the ship's agent.

Q Do you remember his name?

A Well, his name?

Q Yes.

A Well, he has a French name and I can't remember it now.

MR. SCHULMEISTERS: Mr. Smith, would you supply me that name, please?

MR. SMITH: If I can.

MR. SCHULMEISTERS: All right.

MR. SMITH: Was it La Chartier?

THE WITNESS: No, he was the agent.

MR. SMITH: All right. He was the agent.

THE WITNESS: Yes, before we came here.

Q Did you file any reports with the Casablanca Port Authorities?

A No, I made a note of protest at the American Consul.

Q At the American Consul?

A Yes.

Q Do you have the protest with you here?

A No.

MR. SCHULMEISTERS: Mr. Smith, do you have it?

MR. SMITH: I don't, no.

MR. SCHULMEISTERS: Do you know where it is?

MR. SMITH: I don't know where it is.

Q Did you get a copy?

A Well, I think I got a copy back from him. Yes, it is one of those things. You make it all the time, you know. I think he keeps one copy and he sends one to Washington.

Q Did you write any letter, memoranda, telegram or any other kind of writing to the Moroccan authorities?

A I don't remember. I was making notes because I called New York every day. I just write on a piece of yellow paper there because I was talking to New York every day.

Q Where are those notes now?

A Well, in the waste paper basket the same day, I guess.

Q Did you contact the New York Office after grounding?

A Yes. They were in contact with New York, before we even came in, on the telephone.

Q You called them --

A No, I didn't. The ETA Agent called them, and after we got into the dock I was ashore on the telephone to New York.

Q Whom did you speak to in New York?

A Captain Unger.

Q Anybody else?

A Well, somebody else was there. I think the port engineer was there. He was on the telephone once.

Q Who was the port engineer?

A Well, I think Mr. Ann was on the telephone.

Q Anybody else?

A Not that I can recall although there might have been.

Q All right. Did you eventually submit any report to your company?

A They don't require reports. I sent this in and I think we had a copy of that.

Q You mean a Coast Guard report?

A Yes, that is all he needs.

Q That is Exhibit O?

A Yes.

Q Were you specifically instructed not to make any reports concerning the accident?

A No. I don't even write Captain Unger one letter a year.

Q Did you prepare any of the reports or statements for your underwriters at any time concerning the grounding?

A I think the underwriters in there that came aboard, they might have submitted their report but it might be in the log. They made an entry in the log, a sea worthy officer to proceed back to the United States. We got a sea worthy officer.

Now, I think they handled that through the agent over there.

Q Did anyone other than the ship agent come down to see you in Casablanca?

A Yes, the ABS man came down to inspect the vessel.

Q Anyone else?

A Two or three repair outfits came down. They wanted the business, to put up that cement plug up forward ~~I can't recall exactly. Some official came aboard just~~

Q And did you have any disagreements with the pilot as to how to come off the strand?

A No, I just told him I believe I agreed with him that we could go astern and come off because we had that swell.

Q How far was that swell?

A Well, you could see it right there in your report, two to six feet. That is what pushed us off is the swell. We used that swell and that was most of what got us off.

Q All right. The draft of your vessel going in, I believe, in the log book?

A Well, it should be in the first part of the log book, yes.

Q Did you receive any messages from the pilots before you entered the harbor?

A Well, I got a verbal message from the agent. All we had was agents so we got in touch with the agent through the radio telephone and I was in contact with the pilot on VHF.

Q You received a message from the agent?

A He was telling us when the pilot would meet us.

Defendant's Exhibit QQ-1

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- -x

EMPIRE TRANSPORT, INC., as owners of the Steamship POTOMAC,

Plaintiff,

- against -

UNITED STATES OF AMERICA,

Defendant.

- -x

Continued deposition of VERNON W. HANSEN, taken by the Defendant pursuant to Notice, at the offices of Burlingham, Underwood & Lord, Esqs., 25 Broadway, New York, New York, on June 21, 1973, at 2:00 P.M., before Pauline G. Winslow, a Certified Shorthand Reporter and Notary Public of the State of New York.

Defendant's Exhibit QQ-1

Hansen

them.

My recollection is I gave you copies.

MR. SCHULMEISTER: Off the record.

(Discussion off the record)

BY MR. SCHULMEISTER:

Q I have here a diagram drawn in pencil. I show it to you, Captain. Do you recognize it?

A Yes.

That is my writing.

MR. SCHULMEISTER: Before we go on, please mark that as Defendant's Exhibit S for Identification.

(Diagram marked Defendant's Exhibit S for Identification, this date.)

Q Now, this diagram, Defendant's Exhibit S for Identification, what is it, Captain Hansen?

A I copied it off a photograph there of the harbor in Casablanca.

Q Off a photograph?

A Yes.

MR. SCHULMEISTER: Can I interrupt you for a minute and mark that photograph for reference Exhibit T for Identification?

Defendant's Exhibit QQ-1

L. ...n

(Photograph marked Defendant's Exhibit T for Identification, this date.)

Q Do I understand you in preparing Exhibit S you copied it from Exhibit T?

A Yes.

Q Please continue your explanation as to what Exhibit S is.

A It is a copy of the Casablanca harbor photograph showing where the ship grounded.

Q When did you prepare it?

A I prepared it in Casablanca.

Q Was it on the day of the stranding?

A No, I think I did it inside of the dock that would be about two or three days later. As near as I can recall.

Q That would be still in February 1972; is that correct?

A Yes.

Q I believe you previously testified that after the ship docked in Casablanca you telephoned New York and spoke to Captain Unger; is that correct?

A Yes.

Q Did you prepare Exhibit S before or after you spoke to Captain Unger?

on.

fact.

MR. SMITH: Lay a foundation for it.

Q I will repeat my question.

Captain, on February 26, 1972, prior to stranding, did you know then that in entering Casablanca or any other Moroccan port that a black buoy should be left to starboard when entering?

MR. SMITH: Left to starboard?

Q (Continuing) When entering a black buoy should be left to starboard in Casablanca.

MR. SMITH: The opposite to the U. S. that is your question?

MR. SCHULMEISTER: Yes.

Q Did you know it then?

THE WITNESS: Did you object to that?

MR. SMITH: You can answer it.

A I knew it was the French system, was opposite to U. S. Most Europe is opposite on buoys but to continue the answer, the reason I thought it could have been different in Africa is because they had this prohibited anchorage fairway on both sides of the buoy and the ship that went in ahead of me so -- headed to pick up the pilot -- he passed the entrance buoy on his port side.

Q And that is the reason you thought you should

leave it to port?

A Yes.

Q But your prior knowledge was that in Morocco black buoy should be left to starboard?

A No, I said in Europe.

MR. SMITH: I think you are twisting his answer around a bit. You asked him a different question and assumed an answer from that. It is not correct to do that. His testimony was the French system was you pass a black buoy to starboard.

MR. SCHULMEISTER: When entering.

MR. SMITH: You again failed to lay a foundation.

THE WITNESS: Morocco had its independence. It could have used the American system.

Q Did you find out before you entered?

MR. SCHULMEISTER: Please answer yes or no.

A I was told -- did I make a point of finding out?

Q Yes.

A No, I go by whatever the local use is. I noticed it outbound passed on the port side and entering on the port side.

Q Outbound passed on the port side?

A And inbound entered on their port side.

Q How many vessels did you observe like that?

A One came in ahead of us for a medium-sized vessel and going out it was a smaller one.

Q By medium-sized, what do you mean?

A About ten thousand, eight, ten thousand tons.

Q Would it be --

A Roughly. That is a rough guess. It is too far back to remember what the ship was. I remember it was medium-size.

Q Was that smaller than the POTOMAC?

A Yes.

Q Would her draft have been less than the POTOMAC?

A Yes.

Q On February 26, 1972, did you know that Morocco had been a French colony?

A Yes.

Q Did you also then know that as a French colony it had used the French systems?

A I assumed that it had when she was a colony, used the French system.

Q Had you noticed or seen anywhere any writing that

Defendant's Exhibit QQ-1

[illegible] had changed its system from total French system [illegible] it became independent?

A It became an independent kingdom I assume there with many changes.

Q You assumed there were many changes?

A Yes, I had seen in news magazines where the King was running the country for himself.

Q But you did not know in fact of any change in the buoy system, did you?

A I had nothing to go by whether it had changed or not changed.

Q Captain, do you think it is a good practice for a navigator to follow a ship ahead?

MR. SMITH: Objection. You don't have to answer that.

THE WITNESS: Is this a hypothetical question or did you say it have to do with this case?

MR. SMITH: You don't have to answer. This is a discovery deposition and it is outside the discovery to ask your opinion.

MR. SCHULMEISTER: He is the Captain. I can ask him.

MR. SMITH: You can ask what you want but

Q So the answer is you did not know?

Let me reword it.

The fact is, is it not, that on February 26, 1972 you did not know what the system was in Morocco; is that correct?

A It could have been either way.

Q Please answer the question. The fact is you did not know what it was?

MR. SMITH: He has answered the question. He said it could be either way. That is the fact.

A That is my answer.

Q In other words, you did not know?

MR. SMITH: Not know what?

A I gave you my answer. That is it; that is in the record.

MR. SMITH: He has answered it three times now, John. I am sorry you don't understand the answer but I understand it. He says he does not know which system was used in Morocco. That is what you want to find out.

Q In February 26, '72?

A Yes.

Q Today do you know what system is used there?

A Yes.

Q Explain that, please.

A Pardon?

Q Explain it, please for the record.

A A pilot chart?

Q Yes.

A You had one in your hand.

Q I have one in my hand. Can you explain for the record what a pilot chart is?

A Is this an examination? I have taken five of them. I already testified to that. If you put it out I will agree to it. It is a pilot chart. You can put a mark on it as an exhibit.

Q I show you something that has been marked previously as Defendant's McLoud Exhibit B for Identification.

A That is a pilot chart.

Q Is it true that pilot charts on their reverse side contain navigational information?

A They have much useful information.

Q I see you turned around McLoud Exhibit B for Identification.

Do you know what is shown on there?

A Buoy system.

Q Does it show the system for Morocco?

A Yes, it does. France, Morocco, Algiers and Tunisia.

Q Did you ever see this particular pilot chart before?

A Yes, I believe I did.

Q What is the date of that pilot chart?

A 1967.

MR. SMITH: What month?

THE WITNESS: March '67.

Q Would his set of such pilot charts have been on board the POTOMAC in February 1972?

A I believe there is one on there. It had been on there. They often give them to the crew and they plot the ship's course during the voyage.

Q Would not a pilot chart containing buoy systems of various countries be kept together with other navigational information?

A Yes.

~~Q Is it correct to say then that that chart was available for you to look at prior to entering Casablanca?~~

MR. SMITH: Objection.

Ask him if it was on board.

MR. SCHULMEISTER: He already testified ~~it probably was on board.~~

Section 9-39 of the sailing directions. Which you are looking at right now, that is a copy of the sailing directions that you had on board which of course is Exhibit H. Would you please read the whole paragraph then entitled "Buoys".

MR. SMITH: Do you want him to read it out loud?

A Buoys.

MR. SMITH: Start from the beginning of paragraph.

A A lighted whistle buoy, equipped with a radar reflector, is moored close off the seaward extremity of the submerged section of the breakwater forming the outer portion of Jette Delure.

Q Thank you, Captain.

When you read the sailing directions and looked at Chart H.O. 3777, which is Exhibit D, did you notice that section about the buoy?

A I read the sailing directions.

Q Did the sailing directions section in your mind refer to Buoy CA5?

A Yes.

Q So is it not true that Buoy CA5 is moored close off the seaward extremity of the submerged section --

dot, a little to the east of the crossed lines?

A Right here it would be over four hundred yards that would be the cross right there. Whoever put that there were in a hurry and missed it by a few yards.

Q Who did?

A Whoever made the log, the Chief Mate.

Q When was that entry made in the log book, "Forward-bow raised. 400 yds --" which I believe stands for yards -- "from jetty by radar"?

A I imagine after the excitement.

We got around to writing the log up.

Q Did you have anything to do with making that entry?

A I probably told him to write it, I might have told him to write the log book up if it hasn't been written.

Q When was that?

A After the excitement. It might have been an hour, two hours, I imagine he wrote it before he went off watch at four o'clock, 1600; when he went off 1600. He probably got relieved at 1549-1600, I don't know.

Q Captain --

A Yes.

Q (Continuing) -- who is the Mate you are referring to as "he"?

(Photograph marked Defendant's Exhibit U for Identification, this date.)

THE WITNESS: May I see it?

Q I show you what has been marked as Defendant's Exhibit U for Identification which is a photograph. Please compare that with the page for February 26, 1972 of your log book Exhibit E and tell me if the photograph is of that page although the photograph may not show all the entries that are shown on the log book page?

A It looks like a similar page, it looks like the page.

Q On this photograph it shows that the 2400 entry was already made, was it not?

A Yes.

Q And there are a number of entries including the following -- let's see. Let me get it straight for the record. Is it correct, Captain, that the log book contains the following entries which I will read that are not on the photograph? In other words, the log book contains the following "Forward-bow raised 400 yards from jetty by radar, 1556 pilot aboard, V.A.R. bells and rudders per bell book-master conning-because of stern swell, attempting to float vehicle by yawing, and working ahead over obstruction". Is it correct that by looking at the photograph the entry

that I just read was entered later?

A It was entered that same day. I told him to write up the log book.

Q Is it not correct that the entry I just read was made after the 2400 hours entry if you compare the log book and the photograph?

A It could have been made up that night if he hadn't written the entry --he was on the twelve to four. He probably finished writing it up from the bell book that night.

Q Is it not true, Captain that --

A He could have finished writing up this log at midnight.

Q Captain, is it not true that this entry that I just read, you had prepared on a slip of paper and gave to Mr. Hunziker and ordered him to enter in the log book?

A No.

Q Definitely not on the 26th of February 1972?

A As I said I told him to -- I could have told him to write up the log book. I might have told him to finish writing up the log book. The time we went aground and the time of arrival comes in any way. The time we went aground and then what happened and he got the rest of this stuff out of the bell book.

Defendant's Exhibit QQ-1

Q Is it not correct, Captain that that entry was definitely made after the ship had docked in Casablanca?

A No. No, I don't think so because he made that at midnight. All the stuff here everything is.

MR. SMITH: For the record. Where did the photograph come from; who took it? Let us get it on the record now.

MR. SCHULMEISTER: I received -- this is an enlargement of a photograph I received from Mr. Hunziker.

MR. SMITH: When did Mr. Hunziker take it?

MR. SCHULMEISTER: When we take Mr. Hunziker's testimony, we will find that out.

Q Captain, I ask you again is it not a fact that you reconstructed the grounding position?

MR. SMITH: You didn't ask him that question before. I object to the question. The form you are asking it. You had better start over again because I am objecting to it right now.

MR. SCHULMEISTER: Let me finish my question.

MR. SMITH: There has been no evidence of any reconstruction of a chart.

MR. SCHULMEISTER: The Captain testified

your mind the information contained in the sailing directions that the outer extremity of the breakwater is submerged for a distance of 400 yards?

A Let me give you a statement here and then maybe you will have to rephrase the question if it isn't the right answer.

Q I would like an answer to my question.

A Repeat the question then.

MR. SCHULMEISTER: Read it back, please.

(Question read back)

A Not 400 yards. I read it in the sailing directions. I assumed I can check up on all the corrections. I saw it had an underwater extension and assumed what was shown on the chart was the end of the extension.

Q But you knew it was 400 yards?

A I didn't step it off on the chart.

Q Did you have that distance in your mind?

A I had in my mind the one shown on the chart. I stepped it off the chart to show how far I had come up from the end of the breakwater on here.

Q Step off the distance on the chart now, please?

A About 200 right. The one on the chart shows about 25 yards.

Q So at that time within the last ten seconds prior

stranding what you had in your mind is 250 yards not 400 yards.

A That is what it showed on the chart.

Q But previously you had read that the extension was 400 yards?

A When I read before arrival when I read the sailing directions. I just noted there was an underwater extension and saw it was on the chart and assumed it to be correct.

Q So is it correct to say that within the last minute prior to stranding you did not have in your mind the distance of 400 yards?

A No, the distance I had in my mind prior to stranding was the distance shown on the chart.

Q Which is 250?

A 250.

Q And at no time prior to stranding did you ever measure the 400 yards on the chart?

A Not the 400, no.

Q So is it correct that when on radar you saw a distance of approximately 400 yards off you thought you were in safe water?

A Well, I -- that sounds -- I didn't -- the distance was coming in there it looked like it was safe, deep water all right to come in, 450 yards what did we

measure? Four -- 425, 430.

Q That was the measurement you just made?

A Yes, so I assumed 400 yards was clear.

Q Had you thought of the 400 yards mentioned in the sailing directions you would not have gone that close; is that correct?

A Yes, if I had stepped it off and noticed the extension was 400 yards, I wouldn't have gone in.

But I would have had to check the chart out and I have to assume that the charts are correct.

Q What is the printing date of that chart?

MR. SMITH: The chart speaks for itself, Mr. Schulmeister.

Q Over here I think on the left-hand side.

A April 23rd, '66.

Q NOW, Captain --

MR. SMITH: Let him finish.

A (Continuing) Corrected by notice to mariners December 11, '71 and new corrections and no corrections in notice to mariners after this date of December 11, '71.

Q Captain, does not the chart show that on the end of the breakwater and in the area of the underwater construction that there was work in progress?

A It has printed on the end of the breakwater

Q What does number 4 say?

A That is from the agency, it says: "Berthing upon arrival, please come closer Buoy CA5 for enabling pilot. Regards." It doesn't make much sense.

That is poor grammar. He probably meant as close as possible to CA5 to enable pilot to board.

Q Did you receive any cable subsequent to cable 4?

A Let me see. "Despite delay doing best for your berthing. Please immediately contact pilot through Casablanca radio phone 75515."

Q That is cable number 3?

A Yes.

Q What time did you receive that?

A 1454.

Q 1454?

A Yes.

Q Now, the grounding time was what time?

A What time was it?

Q Here is the log book.

A 1640.

Q What time did you ground?

A 1549.

Q 1549. Now, you received the cable number 3 at what time?

A 1454. That was before our arrival.

Q Before your arrival?

A Yes.

Q Now, where did you get this time of receipt 14 --

A This is the time it was sent. Here is the time of receipt up here. Number 3 was received on the ship at 1515.

Q And the grounding was at 1549; is that correct?

A Right.

Q So you received that cable number 3 just a little more than one-half hour prior to grounding; is that correct?

A Yes.

Q Did you try to contact the pilot by radio telephone?

Q No, we got the agent. I am quite sure I talked to the agent and not the pilot.

Q The agent?

A And told him we might make it and might not make it and in the previous shipping, the pilot up inside the breakwater which is the custom in many North African ports as I have heard, he went inside and picked him up.

Q You had never been to Casablanca before?

A No.

Q You are not qualified to say what the custom

Q Is it correct that the substance of cable 11 is that --

MR. SMITH: The cable speaks for itself. Now, if you want to state what it says you can read it. Not in substance. Read it for the record. Mark it for an exhibit. You have identified it. It speaks for itself.

Q Captain, with reference to cable 11 is it not true that arrival was -- excuse me, that the arrival time was very critical to you because of the high tide at 1244 hours and that there was a serious question of whether the ship would be able to dock if she arrived much later after that?

A Shallow water ports you always are supposed to get there at high water. Critical -- I have already answered that. There is another message I replied with.

MR. SMITH: It is on the record. You don't have to answer that.

A I requested anchorage in case we couldn't make it.

Q Now, Captain, last time when I asked you whether or not you had submitted any reports to the Casablanca harbor authorities your answer was that you did not recall.

A Yes.

Q Now, has your recollection been refreshed?

A Yes. I see Mr. Smith had some papers here. I recall them now.

Q So last December, they were not present and you did not recall them?

A No, I didn't.

Q Now, let me show you exhibits that have previously been marked Defendant's Ewen Exhibit 7-A for Identification and 7-B for Identification and 7-C for Identification, 7-D for Identification, 7-E for Identification -- there is no "F" -- 7-G for Identification, 7-H and 7-I for Identification.

Do you recognize those documents?

A Yes.

Q Each one of them contains a signature. These are Xerox copies except for one of them, that is a carbon copy. Is that your signature on each and every one of these documents?

A Yes.

Q Here we have eight documents which all deal in one way or another with your stay at Casablanca; is that correct?

A Yes.

Q And last December you could not recall whether you had written any?

Defendant's Exhibit QQ-2

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

EMPIRE TRANSPORT, INC., as owners of the Steamship POTOMAC,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

Deposition de bene esse of VERNON J. HANSEN taken by the plaintiff, pursuant to notice and adjournment, at the offices of Burlingham, Underwood & Lord, Esqs., 25 Broadway, New York, New York, on Friday, June 22, 1973, at eleven-fifteen o'clock in the forenoon, before Martin Samuels, a Notary Public within and for the State of New York.

* * *

V E R N O N W. H A N S E N, having been first duly sworn by the Notary Public, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SMITH:

Q Captain, please state your full name for the record.

A Vernon W. Hansen.

Q Where do you live?

A Vancouver, Washington.

Q What is your present occupation?

A Ship master.

Q Are you assigned to a particular ship at this time?

A Right now I am assigned to the MOHAWK.

Q In what capacity?

A Master.

Q Where is the MOHAWK?

A San Francisco.

Q What status is the MOHAWK?

A Right now she is reduced operating status. We refer to it as ROS. She is on standby for MSC cargo, no crew aboard, until her loading date is known.

Q Is she under charter to Military Sealift

A 125 is the course.

Q What did you do after that, Captain?

You can refresh your recollection from the bell book and logbook, if necessary.

A We were approaching this buoy, pilot grounds. We were supposed to pick up the pilot. I don't know where the pilot is supposed to be awaiting us.

Q What observations did you make, if any, as you approached the pilot grounds?

A When we were getting down closer, there were small sailing vessels appeared to be in a race. It went back and forth across, ahead of us, and there was a vessel going in and another vessel coming out, and there was no pilot at the buoy CA5, and we approached the buoy -- there was no pilot. The vessel going in ahead of us had stopped and picked up the pilot just inside the breakwater, and the vessel that was outbound, he had slowed or stopped to drop the pilot off at the same area.

Q What were theweather conditions at that time, Captain?

A Clear. The wind was very light, and there was a good swell running.

Q What direction was the swell coming from?

Q Referring to the bell book, after the 1530 stop bell, what orders were given to the engine?

A 1537, stop. 1541 was half.

Q Captain, what do you estimate your speed was at the time that the vessel arrived, at 1530?

A About 12.

Q 12 knots.

And what was it at 1541, when you went half ahead, approximately?

A Half ahead -- I would give her 60. We were about eight or nine, but that is without using a pencil to figure it.

Q What is the next bell after the 1541 bell?

A The 1541 was full ahead -- no, slow ahead. 1541 was slow; then, 49 was half.

Q Captain, at 1541, I will ask you again, when the engine was put on slow ahead, what was the speed of the vessel through the water?

A Slow -- that is about six.

Q Would it be going six when you put her on slow ahead?

She had a stop bell at 1537.

A When the ship slows down, it goes on a curb, and you reduce the speed, and she drops off fast.

Q Did he do that?

A Yes.

Q And where did that put the vessel, according to his fix?

You may refresh your recollection from the chart if necessary.

MR. SCHULMEISTERS: Let the record show the captain is taking a distance between the visible end of the breakwater and the cross of two lines.

A Well, 425, 430 yards off the end of the visible breakwater.

Q Did you also request Mr. Hunziker to take radar range and bearing?

A Yes.

Q What did he report back to you as to the position of the vessel as she was aground?

A He said it was two-tenths or three-tenths of a mile off the end of the breakwater -- was it three-tenths to four-tenths?

MR. SCHULMEISTERS: Are you asking?

THE WITNESS: I am asking -- I am thinking out loud.

Q Why don't you think to yourself and give us the answer, Captain. It makes it easier.

A It is on the record already what the answer is.

I believe --

Q Listen to the question, Captain:

What did Mr. Hunziker report back to you as to the distance off the end of the breakwater by radar?

A Two to four-tenths, I believe.

Q Captain, did you have any conversation with anyone from Ogden subsequent to the stranding?

A Talked to Captain Unger and Mr. Mann on the phone.

Q Did you have any conversation with anybody else back in the States?

A I don't recall.

Q Did anybody come out from the States to discuss the stranding with you?

A No.

Q What was your draft, Captain, as you approached -- strike the word "approached" -- what was your draft on arrival at Casablanca?

A 33 feet five.

Q Is that a mean draft?

A That was fore and aft.

I believe that came up yesterday. We referred to it in previous testimony.

Q Now, does either one of these two charts, Defendant's Exhibit P, Chart 1743, or Defendant's Exhibit Q, Chart 51013, show the three buoys, CA1, CA3, and CA 5, just outside of Casablanca harbor?

A No.

Q Now I refer you to Defendant's Exhibit R, H-03776. Does that chart show the three buoys, CA1, CA3, and CA5?

A Yes.

Q Is there a track line on Chart 3776?

A No.

Q In your navigation, as the vessel was nearing Casablanca, did you actually use Chart 3776, which is Exhibit R?

MR. SMITH: Use it how? You have to be more definite than that.

Q You had it on board the vessel; right?

A It was out on the chart table.

Q Did you do any navigation on that chart?

A Yes; for distance off.

Q But there are no marks on that chart?

A No, no marks.

Q Of these three charts that we have been talking about, Exhibits P, Q, and R, the only charts

~~the most prominent lights, here, here, and here.~~

Q Now, you referred to three lights, here, here, and here. One of them is named Table d'Oukacha. Did you make a circle that was around that light?

A I don't recall whether I made it or not.

Q Now, the other circle is around "Occulting, white, red"; is that correct?

A Yes.

Q Then you pointed out a set of lights in the inner harbor, next to some piers. They don't have a circle around them; is that correct?

A Yes.

Q One of them does have it?

A You see, right there, and it crosses in here, it comes down. There is a light circle put on that also.

Q Now, referring to this occulting light over here, and so that we can have that identified, let's lable that with a letter, a black letter O.

Would you draw a line from it and just label it with the letter O?

~~(Witness complies.)~~

Q Now, this light labeled with the letter O, that doesn't have a name, it is the occulting light; does it have a sector?

A Yes.

Q What color?

A It has a red sector.

Q What does a red sector of a light mean?

A That's a danger sector.

Q Now, would you please take the triangles and the black pen and extend that red sector as far as it goes?

A Extend it from where it ends?

Q Yes. And we are talking now about Plaintiff's Exhibit 13.

(Witness complies.)

Q You have drawn a black line there?

A Yes.

Q Would you label that line at the end with the letter P, please.

(Witness complies.)

Q Now, this other light, Table d'Oukacha, would you also label that with the letter Q, please?

(Witness complies.)

Q Does this light labeled with the letter Q also have a red sector?

A Yes.

Q That also is a danger signal?

Q Now, Captain, what revolutions were you doing at that time?

A At the time just before we stopped?

Q Yes.

A 1530 we stopped. I think we were turning about 80.

Q 80?

A About 80, I believe.

Q Had you come down to Maneuvering revolutions at that time?

A On arrival, just previous to arrival, they put it on maneuvering.

Q What are the maneuvering revolutions, Captain?

A Maneuvering, on that ship, was 80, 60, 40, 20.

Q Now, 80, does that mean full ahead?

A Full ahead.

Q 80 revolutions per minute?

A Yes.

Q Now, 60 is for half ahead?

A Yes.

Q And 40 is for --

A Slow.

Q And 20?

A 20 is dead slow.

Q Thwt is ahead?

A Yes.

Q Is it the same for astern?

A Yes. Well, going astern it could be -- often it is less. Theoretically, that is what it should be astern, but --

Q Astern is a little less?

A Practically speaking, it is a little less.

Q Did you receive the signaled revolutions every time on February 26, 1972, prior to stranding?

A Pardon?

(The question was read by the reporter, as above recorded.)

A Yes. It shows on the tachometer.

Q And you checked it?

A I did. It is a habit; few seconds later, or a minute later, you look and see if you got it.

Q What is a tachometer?

A It shows revolutions. It is an electronic indicator.

Q What revolutions are they that you are talking about, for the record?

A The number of revolutions the propeller makes.

term, "impulse speed."

MR. SMITH: It may be a term used by naval architects in their work but not mariners.

BY MR. SCHULMEISTERS:

Q Let's use another term now.

Is there a formula whereby you can figure out what speed the vessel should be moving through the water without slip if you have the revolutions and the pitch of the propeller?

A Yes.

Q What speed do you call that?

A The speed of the vessel.

Q Is that speed of the vessel --

A Theoretical speed of the vessel through the water.

Q So, now we have our terms right.

Theoretical speed of the vessel, what is it for 60 revolutions on the POTOMAC -- or I should say, what was it on February 26th?

A With or without slip?

Q Without slip.

A Without slip, I get 10 or 10-1/2 knots.

Q Now, for slow ahead, or 40 revolutions, what would it be?

A It would be about eight; 60, according to that.

Q I get 6.9, Captain. I get 6.9 for 40 revolutions.

A Now, 40, I get 6.9 or seven.

Q And for 80 revolutions full ahead, what do you get?

A What do you get?

Q I got 13.8 for full ahead, 80 revolutions.

A 13.8?

Q Yes, that's what I got. Do you agree?

A Yes, I agree to the theoretical speed through the water, with no slip.

Q With no slip, yes.

Now, Captain, in response to Mr. Smith's question, you said, at 1541 you were proceeding at about eight or nine knots; is that correct?

A 1541?

Q That is what I have in my notes. Is that correct?

MR. SMITH: What was the figure you gave him?

Q At 1541 hours, when you gave the slow ahead bell.

A What did I give him?

~~and solid color would tell you what side to leave it.~~

On the American system the black buoy would be on your port side.

Q Entering?

A Yes.

Q And the black one should be left on which side?

A Entering North European?

Q Yes.

A Starboard.

Q Did you know prior to going to Morocco in February 1972 that Morocco had been a French colony?

A Yes.

Q Would you assume that Morocco would then follow the French system?

MR. SMITH: Objection. I don't think he has to answer a question based on an assumption such as that.

Q What system did you expect Morroco to use?

A I honestly expected no system at all because those ragged North African countries have no system, and they are not taking care of their own buoys. They are just sitting there and rotting and shifting and moving around, and they don't keep anything up, just like India after

the British left. I expected not to find anything, and that is the truth.

Q If that is the condition that you expected to find, would it then not be the safe and prudent thing to do to wait until the pilot gets to you before entering the harbor?

A No. The customary thing in a North African country is to go in and get the pilot because chances are he won't be out there to meet you.

Q But did not your agent send you a message saying that the pilot would be at Buoy CA5?

A His assumption was that was where he was supposed to be.

Q You are saying the agent's assumption was; did you or did you not receive a message saying that the pilot would board within the vicinity of CA5?

A Yes. I said that yesterday.

MR. SMITH: The message didn't say he would board at CA5.

I wish you'd stop twisting the facts. You said "board," and the message didn't say "board."

I objected to that once before.

Q Is it not true that message No. 5 in Exhibit V reads: "Pilot boarding Buoy CA5 stop"?

RECD
'72 MAR -6 AM
OGDEN MARINE, INC.

563a

Defendant's Exhibit RR-4

OGDEN MARINE, INC.
SUBSIDIARY OF OGDEN CORPORATION
2 PENNSYLVANIA PLAZA - NEW YORK, N.Y. 10001 - (212) 565-5800

CABLE ADDRESS:
"BULKTRANS.NEWYORK"
TELEX NUMBERS:
RCA.224060
ITT.428418
WUI.620148

ss POTOMAC
29 February 1972
Casablanca, Morocco

File
P&I 78
205

The Harbor Master
Port of Casablanca

Dear Sir:

This letter is in regard to the services of Pilot Boon while aboard this vessel.

He boarded this vessel while she was aground. On reaching the bridge he suggested that we go astern with engines in order to attempt to float the vessel. This would have been very improbable unless we had used the tugs because of the swell from astern. The master was conning the vessel all the time she was aground and it was his decision to go ahead on the engines and attempt to float her by using the swell from astern in conjuction with the rudder and the stronger forward thrust of the propellor. The use of tugs in a sternway freeing attempt would have involved the vessel in a probable million dollar salvage award for the tugs' owners. The pilot's presence was appreciated because once the vessel was free he could immediately take the conn because of restricted waters and crowded anchorage.

The pilot was asked to spend the night aboard because if it was found that the vessel was making water faster than the pumps could handle it then he could put the vessel ashore on the nearest sandy beach rather than a rocky shore.

Pilot Boon's presence while aground was appreciated but was not essential to the freeing of the vessel.

Hansen, Master ss POTOMAC

cc: Mr Decnop of TEREM Casablanca
Mr Floyd of OGMAR New York

564a

Defendant's Exhibit RR-6

OGDEN MARINE, INC.

SUBSIDIARY OF OGDEN CORPORATION

2 PENNSYLVANIA PLAZA - NEW YORK, N.Y. 10001 - (212) 565-5800

CABLE ADDRESS:
"BULKTRANS.NEWYORK"
TELEX NUMBERS:
RCA-234060
ITT-428418
WUI-026148

28 February 1972
Casablanca, Morocco

Harbor Authority
Port of Casablanca

To Whom It May Concern

Dear Sir:

Regarding the grounding of the ss POTOMAC near the entrance to Casablanca harbor the writer wishes to bring to your attention two observations.

One. Buoy CA5 is charted as being seaward of a line extending outward from the jetty. Actually this buoy is now considerably shoreward and inside of a line extending from the jetty. As one crosses the line of the jetty he can easily see that the buoy is not in its charted position.

Two. After being aground for one hour on an ebbing tide our leadline soundings showed a minimum of 36 feet (11.1 meters) around the vessel. The vessel's draft at this time was 33'5" 10.2 meters) fore and aft. While attempting to free the vessel with propellor and rudder she was pivoting on and passing over one or two large rocks. The vessel could not have pivoted if she were aground on the submerged extension of the jetty. Nor could she have passed on across the submerged extension of the jetty had she grounded there because of insufficient depth of water. Therefore, the writer believes that during the construction of this jetty extension one or two large rocks were inadvertantly placed beyond their intended position. Also, it is possible that continuous heavy easterly ground swells could have shifted these huge blocks of rock from their original position.

This being the second large vessel to ground at the same place in two months perhaps there is now sufficient cause to mark the area with an obstruction buoy.

Hansen

Hansen, Master ss POTOMAC

cc Mr Decnop of TERREM Casablanca
Mr Floyd of OGMAR New York

Defendant's Exhibit TT

The parties herein stipulate that all objections except as to form, are to be reserved until trial.

Plaintiff reserves the right to have the witness read and sign the deposition after it is transcribed.

Sealing and filing waived.

:-:-:-:-:-:-:-:-:

Q.- State full name.

A.- Michel François DECNOP

Q.- Where do you reside ?

A.- Casablanca rue d'Hossegor, 1

Q.- By whom are you employed ?

A.- I am employed by "COMATER" (Consortium International Maritime)

Q.- In what capacity ?

A.- As the shipping department manager

Mr Shulmeisters :
This examination before trial of Mr. Decnop is pursuant to agreement between counsels. Also yesterday by cable I instructed my office in New York to notice Mr. Decnop's examination before trial. Whether it has been done by now, I do not know.

...

Q.- In January - February and subsequent months in 1972, was your company the agent for SS Potomac ?

A.- We were the supervisory agent.

Q.- What do you mean by that ?

A.- According to the charter party, charterers have obtained their agents to be nominated. This agent was the "Compagnie Marocaine de Navigation "COMANAV". As usual in such case, owners have the right to nominate their agents as supervisory agents.

Q.- How did your duties differ from those of the other agents you mentioned ?

A.- The special duty of a supervisory agent is to protect owners' interests during all the call of the ship, as there may be conflict between chaterers' and owners' interests and of course chaterers' agents may be more favorable to chaterers than to owners.

Q.- Did you maintain any files concerning the Potomac's arrival in February and March 1972 ?

A.- Yes.

Q.- We have 2 files here. One I understand deals with a dispute with the pilots association.

Mr. Smith : Objection here. We do not care for your characterization in using the word "dispute". I must suggest that you refer to it as a claim by the pilots.

...

A.- I contacted harbor authorities and pilot station asking them if they stil agree to berth the ship and the reply was yes from both. Pilot station informed me that they could not obtain a reply from V.H.F. It's why I sent cable 52.

Q.- When you mentioned your call to pilot station and harbor authorities you used the phrase : "if they still agreed to berth the ship". Had there been earlier time given to the pilot station and/or harbor authorities for the Potomac's arrival ?

A.- On the 24th we gave E.T.A. 1 p.m. than same day 4 p.m. than on the 26th morning 2:30 p.m.

Q.- These times were given by you to the pilot station ?

A.- Yes.

Q.- How did you do it ?

A.- By phone because you may know that there are 2 harbor conferences per day in order to establish schedule of port movements and schedule of work, means loading and unloading. Owing Potomac draft it was expected for her to be there as near as possible to high tide time, owing working berth draft, peer R3 / R4.

Q.- Whom did you call advising the Potomac's E.T.A. s on the 3 occasions that you mentioned

A.- The stevedore because it is the stevedore who fills the paper for ordering work.

Q.- What is his name ?

....

A.- Les Cargos Eurafricains.

Q.- On all 3 occasions ?

A.- Yes, as far as I remember. In any case the work begins at 3:oo p.m. for the second shift.

Q.- You did not call the pilot station directly ?

A.- No, before the last message on the 26th at half past two.

Q.- Did you call the pilot station on the 2nd message ?

A.- I juste phoned the pilot station and the harbor authorities on Saturday afternoon after receiving the 15:30 E.T.A.

Mr. Smith comments : "He refers to message 51" .

Q.- Whom did you speak to at the pilot station ?

A.- We did not exchange our names and I suppose a pilot replied me that they were awaiting the ship and effectively, when ship was arriving, pilot went outside to berth her.

Q.- What time did you make that telephone call and on what date ?

A.- On the 26th February around 2:30 p.m.

Q.- Message 48 refers to the Potomac's attempt to arrive at 13:oo. Is that correct ?

A. Yes.

....

Defendant's Exhibit TT

Q.- Was there any reason why the Potomac was attempting to arrive at 13:00 ?

A.- The reason was our message 24th February 6:20 p.m. saying that vessel berthing was not guaranteed if vessel arrives too much late after high tide 12:44.

Mr. Shulmeisters comments : "Witness was referring to cable 47".

A.- (continued) In any case ship's agent is not concerned regarding the right for a ship to berth or not, this depending directly from harbor authorities and pilot station.

Q.- Were any E.T.A.'s given to the other agent COMANAV ?

A.- Yes, from the ship on the 24th February at 2:10 p.m. E.T.A. 1600 and maybe Master has notified further E.T.A. to COMANAV, but we have no mention of it in our file.

Q.- Did you at some time send a cable for obtaining information concerning the 3rd of March and the 5th of March being a holiday and the 4th also ?

A.- Yes, maybe.

Q.- Considering that holidays were coming up in early March was it not important that the Potomac berth on February 26 as early as possible in order to avoid the vessel's subsequent delay due to holidays ?

A.- Absolutely not. The ship was needing at least 9 (nine) days for unloading according to Casablanca rates of discharge.

...

Defendant's Exhibit TT

Cross examination by Mr. Smith :

Q.- I refer you to cable No. 50 which is to the Potomac which says, Quote : Pilot boarding buoy CA5 Stop Unquote. Why did you include that sentence in your cable to the Potomac ?

A.- Because it is usual place where pilots are boarding vessels. They are not going beyond bucy CA5 and often they board vessel in inner road.

No further questions from Mr. Smith.

Q.- From Mr. SCHULMEISTERS :

Q.- How long have you been in Casablanca ?

.../...

Defendant's Exhibit TT

Mr. SMITH comments :

Q.- With respect to the times you observed pilots boarding vessels other than the POTOMAC, where did they board ?

A.- All the times I have seen pilots, was not beyond buoy CA5 and yesterday by example at 4:30 p.m. about, pilots boarded a vessel right in the inner roads.

Q.- With respect to the POTOMAC, where were you standing when she grounded ?

A.- Near the end of the jettee.

Q.- When you say the jettee which jettee are you referring to ?

A.- The big jettee in the harbor, it is called the jettee Moulay Youssef.

Q.- Did you see the pilot boat at that time ?

A.- Yes. When the vessel stranded the pilot was still at about halfway from pilot station to ship.

No further questions from Mr. SMITH.

Mr. SCHULMEISTER's examination starts again :

Q.- At what peer was the POTOMAC scheduled to dock ?

A.- T3 / 74.

.....

Q.- Does that peer have a name ?

A.- Môle du Commerce.

Q.- About how far is Môle du Commerce from where you were standing when the POTOMAC stranded ?

A.- About 2000 metres.

Q.- That is straight distance across the harbor ?

A.- Yes.

Q.- How far would you have had to travel overland from the position where you were standing, to Môle du Commerce ?

A.- By car it is about 4,000 metres.

Q.- About 2 miles ?

A.- A little over 2 miles.

Q.- Do you usually meet the vessels for which you are agent, standing on the end of jettee Moulay Youssef ?

A.- No, it was quite exceptionally because it was Saturday afternoon and I was interested to see this big ship (for Casablanca) entering.

Q.- Is it not true that you were maybe anxious to see if POTOMAC would arrive on time to berth on February 26 ?

A.- Not anxious, but concerned as the ship's agents, because in case the pilot refused to enter the ship, the

.....

afternoon of work might have been lost. But the main resson of my staying on the jettee is that I had nothing else to do at the moment.

Q.- How long had you been on the jettee prior to the POTOMAC's stranding ?

A.- About 15 to 20 minutes.

Q.- The pilot boat you were talking about, was that the boat that eventually brought the pilot to the POTOMAC ?

A.- Yes.

Q.- When you observed the pilot boat, what was it doing ?

A.- It was sailing to the exit of the harbor.

Q.- I hand you a yellow piece of paper and a pencil. Please sketch on it approximately, not to scale, the jettee, the pilot station and where the pilot boat was and where you were standing. Please put today's date on it and sign your name.

Comment by Mr. Schulmeisters : "Sketch drawn and signed by Mr. Decnop marked "60" for identification.

Q.- For how long had you been observing the POTOMAC when the ship stranded ?

A.- I have already answered this. For 15 to 20 minutes.

Q.- Had you been observing her constantly ?

...

A.- No, I saw also a French ship sailing and small sailing vessels turning around CA5.

Q.- Was anyone else with you on the jettee or were you alone?

A.- A lot of people were there especially fishers with their lines, and on coming back, because as soon as I realized the ship was stranded I went back to my office and on coming back I met an acquaintance, Mr. Cabot.

Q.- Where on the jettee did you meet Mr. Cabot ?

A.- On the first third of the jettee.

Q.- Can you please mark that on exhibit 60 for identification ?

Witness complies.

Q.- In what business is Mr. Cabot if you know ?

A.- He has a lot of big scrapers that he runs. He is in the scrap iron business.

Q.- Can you estimate how far from the end of the jettee the POTOMAC stranded ?

A.- As I was on the high wall of the jettee it is very difficult for me to estimate a distance, but my opinion is that she was on about middle way between jettee and the buoy CA5.

Q.- Is it correct that right after she stranded you left the jettee ?

...

A.- The ship was arriving very slowly and when I see she stops I thought she was waiting for the pilot. I only realized she was stranded when she did full astern and when I see she was not moving.

Q.- For how long did you observe her after stranding before you started to leave the jettee ?

A.- I think 5 to 10 minutes, but I am not sure. Time is going so quickly.

Q.- Did you see at that time the pilot boat going alongside the vessel ?

A.- When I left the jettee the pilot boat was arriving near the ship.

Q.- That is the boat you marked on the sketch ?

Q.- Can you estimate the speed of the pilot boat ?

A.- No, the only going I can say is that she was moving slowly.

Q.- Was the pilot boat moving slower or faster than the POTOMAC before the POTOMAC stranded ?

A.- It is impossible to compare a 23,000 tonner and a small pilot boat which was not going in the same direction.

Q.- SO, other than saying that at their respective times, the POTOMAC and the pilot boat were proceeding slowly, you cannot estimate their speed? Is that so ?

...

Defendant's Exhibit TT

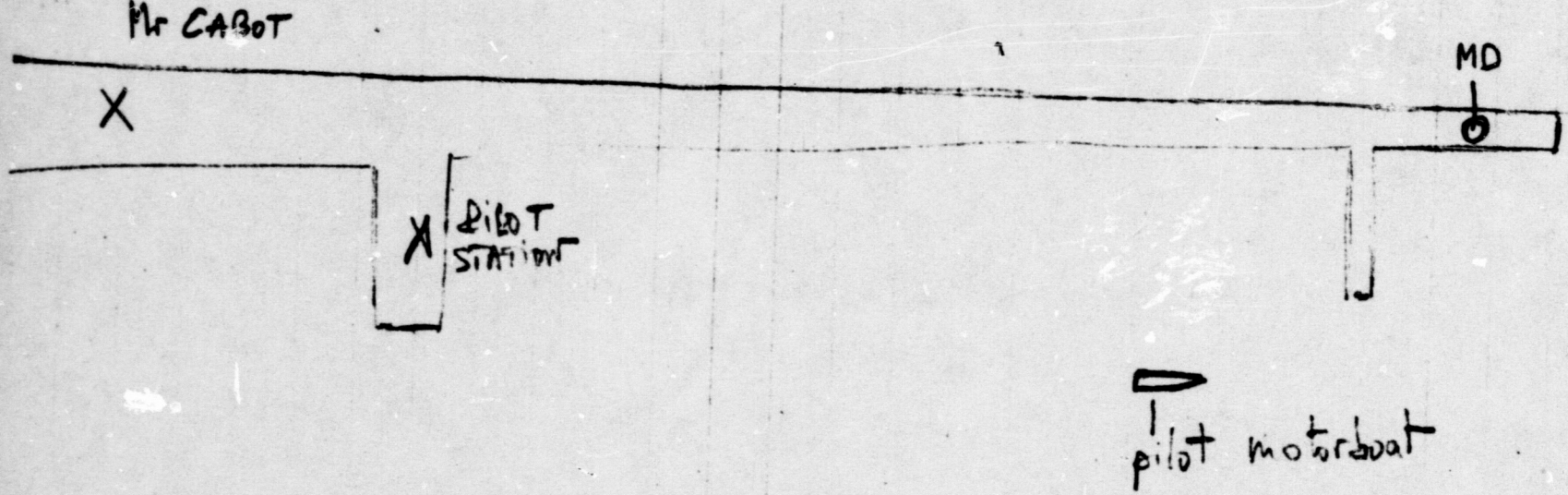
A.- To give exact number of figures is for me impossible to reply, for example POTOMAC 7 or pilot boat 4 knots is impossible to say. I was not on the sea level.

No more questions.

Alex Schumann

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 19th DAY OF 1973

Rex L. Hines
REX L. HINES
American Vice-Consul



1st February 1973

Exhibit 60 for id

577a
Defendant's Exhibit TT-60

105 Not

VIA RUI NYK"
OGMAR 620148

2/23 1640EEE 1625 HRS MD

P O T O M A C

NOW ETA SATURDAY 2/26 1600 HRS STOP CONSEQUENTLY TRYING BERTHING ON ARRIVAL AND IMMEDIATE BEGINNING OF DISCHARGING STOP NECESSARY TO LIGHTEN DOWN TO 31 FEET VIZ ABT 2400 TONS TO BE DISCHARGED AT GENCARGO BERTH STOP

WE EXPECT TO DISCHARRGE ABT 1000 TONS ON SATURDAY AFTERNOON AND 1400 TONS ON MONDAY (0700/1400) IT IS WHY WE THINK IT NOT NECESSARY TO WORK OVERTIME ON SUNDAY STOP VESSEL IN ANY CASE WILL NOT BE ALLOWED TO SHIFT TO SILOS BERTH BEFORE MONDAY 2/28 HIGH TIDE 1405 STOP

HOWEVER IF VESSEL DELAYED AGAIN ON SATURDAY AFTERNOON IT MAY BE USEFUL TO WORK ON SUNDAY INORDER TO MAINTAIN THE PROGRAMM SCHEDULED STOP PLSE LET USHAVE YOUR AUTHORITY AND MAXIMUM EXPENSES AUTHORIZED INORDER WE CAN ADJUST ACCORDING LAST MOMENT CIRCUMSTANCES STOP (BY EXAMPLE IF BERTHING/OPENING HATCHES DELAYED AND IF VESSEL DISCHARGE ONLY 500 TONS ON SATURDAY AFTERNOON WE CAN ASK WORK FOR SUNDAY WITH 3 GANGS INORDER TO ASCERTAIN MONDAY AFTERNOON COMPLETION)

"" DETAILS OF OVERRTIME COSTS :

DIRHAMS 700 PER CRANE (USDOL 140)
" " 3.50 PER TON DISCHARGED (70 CENTS)
" " 200 PER GRAB (USDOL 40)

— EXAMPLE . WORKING SUNDAY WITH 5 GANGS - DISCHARGING 1500 TONS

USDOL 140 X 5 CRANES	; USDOL	700.-
70 CENTS X 1500 TONS	; "	1050.-
USDOL 40 X 5 GRABS	; "	200.-
TOTAL ABT		1.950.- USDOL

"""""

WE ARE CABLING MASTER TRY BEST TO ARRIVE EARLIER AND TO PREPARE EVERYTHING FOR AN IMMEDIATE DISCHARGING"

WE SHALL OF COURSE HAVE SOME EXTRA EXPENSES TO SOME PEOPLE INORDER TO OBTAIN QUICKER SERVICES, PLSE CONFIRM YOUR AGREEMENT AND LIMITATION STOP

BEST REGARDS

MIKE DECNOP

WELL RCD PLSE ??

BIBI.
OGMAR 620148

TEREM 22836M CASABLANCA O

579a
Defendant's Exhibit UU-1

Defendant's Exhibit UU-3

VIA WUI NYK.
OGMAR 620148

29/2/72 1935 M.D

70

Pot

ATTENTION CAP EWEN PLSE

IMPOSSIBLE REACH YOU ON PHONE

POTOMAC NOW ETA SATURDAY 2/26 1800 HRS

PROGRAMM AS FOLLOWS

- BERTHING ON ARRIVAL AT GENCARGO PIER FOR LIGHTENING DOWN TO 31 FEET
- YOUR OPTION TO WORK OVERTIME SUNDAY 2/27 FROM 0700 TO 1500
- WORK NORMAL CONDITIONS MONDAY 2/28 UNTIL HIGH TIDE 1405 HTS THEN SHIFTING TO SILOS BERTH FOR NORMAL DISCHARGE RATE AVERAGE 2500 TONS DAY STOP

EXPECT COMPLETION AROUND 9TH MARCH

YOUR GUIDANCE : 1ST MARCH HOLIDAY (ELECTIONS) THEN 3RD MARCH HOLIDAY (THRONE FESTIVITIES) AND A RISK THAT STURDAY 4TH MARCH TO BE DECLARED HOLIDAY TOO STOP .

SHALL KEEP YOU ADVISED AND WILL REVERT WITH ESTIMATE OVERTIME COSTS FOR WORK ON SUNDAY 2/27 IN ORDER TO HAVE YOUR DECISION

WELL RCD PLSE ??

S CAPTAIN EWEN THERE PLSE ?? MIKE DENEE DECNOP HERE

VER

IBI
GMAR 620148

EREM 22836

Opinion in District Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

72 Civ. 2910 HRT

EMPIRE TRANSPORT INC., as Owners of the Steamship POTOMAC,

Plaintiff,

—against—

UNITED STATES OF AMERICA,

Defendant.

BURLINGHAM, UNDERWOOD & LORD, Esqs.,
New York City, by Joseph C. Smith,
Attorneys for Plaintiff

PAUL J. CURRAN, Esq.,
United States Attorney, by Gilbert S. Fleischer, Attorney in Charge, and Janis G. Schulmeisters, General Attorney, Admiralty and Shipping Section, Department of Justice.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

TYLER, *D.J.*

At about 1550 hours on the afternoon of Saturday, February 26, 1972, the SS POTOMAC, 13,858 gross tons with

22,637 long tons of dry cargo aboard, went aground about 400 yards off the visible end of Jetee DeLure (sometimes hereinafter "the jetty") at the northwest corner of Casablanca Port, Morocco. Concededly, as events proved, the vessel grounded on two large concrete blocks underwater off the visible end of the jetty. Claiming that the grounding was solely the fault of the Defense Mapping Agency ("DMA"), (formerly the United States Navy Hydrographic Office), the owner brought suit in the admiralty part of this court claiming consequential damages from the event. For reasons to be discussed hereinafter, this court concludes that the claim of the owner is totally lacking in merit and must be dismissed, with costs to the United States.

This case was tried to the court on September 25, 27, October 1, and November 12, 1973. Final briefs and exhibits were submitted in late February, 1974. Hence, this case is ripe for decision, and the following will consist of the findings of fact and conclusions of law of the court.

At all relevant times and at present, the SS POTOMAC was and is owned by Empire Transport Inc. and operated for the owner by Ogden Marine, Inc. with offices in New York City. A bulk cargo vessel, the POTOMAC is 572 feet long. As she approached Casablanca on February 26, 1972 she was loaded with bulk grain to a draft of 33 feet 5 inches forward and aft. On the day in question, high tide at Casablanca Port was at 1244 hours. While it was not necessary for the vessel to enter the inner harbor precisely at peak tide, the tide height was a material factor in respect to the POTOMAC's ability to enter the inner harbor,

berth and commence discharging of cargo on February 26th. Moreover, the next day being Sunday, the master was understandably desirous of berthing as promptly as possible in order to avoid stevedoring delays or, at the very least, added overtime costs for stevedoring labor on Sunday.

The evidence indicates that the POTOMAC was originally scheduled to arrive at the entrance of the harbor at about 1300 hours on February 26. When he learned that arrival would be somewhat delayed, the POTOMAC's local agent radioed the vessel with instructions to keep in contact with the pilot's station as of 1300 hours by VHF radio. Though the POTOMAC did not have a VHF set, a later radio telegraph instruction was received by the agent at about 1515 hours with instructions to contact the Casablanca pilot station by radio telephone. For some reason, this instruction was not followed by the master of the vessel, Captain Hansen, or the watch officer.

Ironically, the weather on the afternoon of February 26, 1972 was comparatively ideal for Casablanca Port and its approaches. The wind was out of the southwest at about two knots, and there was a slight southwesterly swell at about three to four feet. Concededly, the master of the POTOMAC and her watch officer then on duty, Mr. Hunziker, had never put in to Casablanca before the day in question. Thus, their ignorance of local conditions was significantly apparent, and as events proved, they did little to behave with concommitant prudence by way of reference to available charts and instructions and, additionally, in speed and caution of approach.

This court finds that ordinarily prudent navigators of United States flag ships in 1972, commonly used two charts published by DMS, one now known as No. 51220 (formerly HO3776), an approach chart, and No. 51222 (formerly HO3777), the harbor chart. For whatever reason, although the approach chart, No. 51220, was aboard the POTOMAC on February 26, it was not consulted or studied by the master or watch officer; this omission, in the judgment of the undersigned, was significant because No. 51220 was the preferable chart, of all the charts aboard, for prudent navigation into Casablanca Port. That approach chart shows an approach line of buoys, CA1, CA3 and CA5, respectively, 3 miles out from the inner harbor, 1.5 miles out, and at the entrance to the harbor; an entrance range course of 228 degrees true; and an entrance course south and east of buoy CA5. To the detriment of the POTOMAC, this course was not followed.

According to Hansen and Hunziker, they apparently used another chart, No. 51013 (the ocean depth curve chart), published by DMS showing the northwest coast of Africa in general but not relating in particular to the approaches to Casablanca Port. They also appear to have referred to the aforesaid harbor chart, No. 51222. Chart No. 51013 does not show the aforementioned buoy range, and chart No. 51222 shows only buoy CA5 and the entrance range course of 228 degrees true.

Unfortunately, although an up-to-date edition of *Bowditch* was aboard, it is found that neither Hunziker nor Hansen appear to have paid attention to its contents dealing with buoys in the ports of the world, including Casa-

blanca. A similar observation and determination may be made with respect to the Sailing Directions, also published by DMA, which, though aboard, could not have been read too carefully by either the master or the watch officer. The Sailing Directions stated, *inter alia*, the following significant matters:

> (a) "The Harbor of Casablanca . . . is an artificial harbor sheltered northward and eastward by a continuation of breakwaters and moles. Jetee DeLure . . . a mole extended by a breakwater which shelters the part northward, extends about 2 miles northeastward from the western port of Casablanca; the outer extremity of the breakwater is submerged for a distance of 400 yards and has depths of 1½ fathoms increasing seaward to 5½ fathoms. (Sec. 9-39)
>
> (b) "A lighted whistle buoy, equipped with a radar reflector, is moored close off the seaward extremity of the submerged section of the breakwater forming the outer portion of Jetee DeLure. (Sec. 9-39)
>
> (c) "Pilotage is compulsory between the Table d'Aukasha and bounded on the north by a parallel of 33° 37′ 40″ N. Pilots are available day and night.
>
> • • • • •
>
> Should bad weather and the state of the sea prevent the pilot from coming out, vessels may enter the port at their own risk and the pilot will await them in the shelter of Jetee DeLure. (Sec. 9-43)
>
> (d) "A signal station is located on the grain elevator on Mole Du Commerce.

> By day, one red flag at the top of the mast indicates that the state of the sea does not permit a pilot to go out, or a shore signal station may advise by lamp regarding pilot." (Sec. 9-44)

Not only were Hansen and Hunziker unacquainted with the buoyage system in Casablanca, but also they appear to have assumed that the Moroccan buoyage system was the same as that in the United States. As they could have determined by referring to *Bowditch* or any other acceptable maritime text, however, the Moroccan buoyage system in 1972 called for keeping a black buoy to the starboard when entering a harbor. The significance of this is that buoy CA5 was a black buoy, but, as will be seen, the POTOMAC was navigated to the starboard of this buoy—i.e. she kept CA5 to the port side in her approach.

The significance of the Sailing Directions aboard the POTOMAC was the heretofore quoted reference (subparagraph (a)) to the fact that the outer extremity of Jetee DeLure extended underwater for a distance of 400 yards beyond the visible or above-water end of that jetty.

Finally, although this court finds that available charts aboard the POTOMAC on February 26th clearly indicated thereon that there was work in progress on Jetee DeLure, including at and off her sea end, it seems inescapable that both the master and the watch officer ignored this significant reference.

Because the vessel was delayed, and due to his concern that overtime stevedoring charges would be required unless he docked as quickly as possible, Captain Hansen ap-

proached the northwest corner of Casablanca Port at a speed which was certainly in excess of what one would have expected for a navigator unused to local conditions. Although it is true that the vessel did stop her engines, at least at one point prior to grounding, it also appears to be true from the records that the engines were started up again just prior to grounding. Suffice it to say that this court finds that at the time of grounding, the vessel was proceeding at a speed equivalent to nine knots on the ground. It is to be noted parenthetically that Hansen claimed in his testimony that he was embarrassed by an out-bound vessel and local sailing boats, called to his attention by Hunziker, which, in his after-the-event view, justified his decision to pass to the starboard of buoy CA 5 and at a point about 400 yards from the end of the jetty where the POTOMAC stranded at about 1550 hours.

Interestingly, the DMA charts to which Hansen and Hunziker claim to have referred (No. 51013 and 51222) state clearly on their face that they are based on 1920 and 1955 French surveys. As stated hereinabove, these charts contained the notation "work in progress" at the end of Jetee DeLure. Surely, Hansen and/or Hunziker should have understood from this reference alone that there was likely to be on-going work, including filling, not visible above water just off the end of the existing jetty. The quoted references from the Sailing Directions, of course, also made the same reference.

Notwithstanding all this, the owner-plaintiff in this case contends that the DMA was negligent in not showing on either its charts or up-to-date addenda or "notices" to its

Sailing Directions of the precise location of the concrete blocks underwater upon which the POTOMAC grounded. In the main, the owner and its counsel seem to rely upon the decision of the Court of Appeals for the Fifth Circuit in *DeBardeleben Marine Corp.* v. *United States*, 451 F.2d 140 (1971). Given the view of the undersigned as to the facts in this case, it is perhaps academic to record my considerable doubt that that case is applicable here simply because it dealt with American charts covering American waters where the United States Coast and Geodetic Survey carries out its own examinations and surveys in order to make relevant charts. With respect to conditions and chart details in the Port of Casablanca, it is obvious that DMA did not and does not there carry out any surveys of its own. Indeed, as the owner must concede, DMA traditionally has relied and continues to rely upon foreign hydrographic offices for basic charts and port details in respect to foreign ports. In connection with the Port of Casablanca, of course, the DMA and its predecessors have traditionally relied primarily upon French charts and, to a secondary degree, upon charts prepared by Great Britain. All this being so, it is to be doubted that the principles of law laid down in *DeBardeleben* are relevant to this case.

But it is not necessary for this court to rely on this apparent legal distinction, for it is clear that the grounding of the POTOMAC was solely caused by the negligence and imprudence of her master and watch officer as they performed their navigation in approaching the harbor on February 26, 1972. Without extended discussion, this court finds that the POTOMAC was negligent, or put differently,

that her master and watch officer ignored principles of prudent seamanship in that they:

1. proceeded at an excessive speed and without waiting for the compulsory pilot as the Sailing Directions aboard clearly stated to be required by local law;[1]

2. failing to ascertain and properly apply the existing local buoyage system;

3. proceeding to pass, contrary to local buoyage system, to the starboard of buoy CA5—i.e. between that buoy and the visible end of Jetee DeLure; and

4. failing to use the approach chart No. 51222, the obviously best and most applicable chart for approaching the inner harbor; and

5. cutting or steering the vessel far too close to the end of Jetee DeLure when the existing charts aboard the vessel and the Sailing Directions, also aboard the vessel, clearly indicated that there was "work in progress" at the visible end of that jetty.

Parenthetically, I am mindful of the argument of the owner that chart No. 51222 showed an underwater extension of 250 yards rather than 400 yards. But, this court has already found that it was imprudent and improper under local regulations to proceed between buoy CA5 and the end of Jetee DeLure. Moreover, any prudent master or navigator should have known that the DMA chart in question was obviously based upon relatively old French charts. Finally, it has already been noted that the Sailing

[1] See also Exhibits MM and MM-1.

Opinion of District Court

Directions aboard the POTOMAC, which Hunziker and Hansen apparently claim to have consulted, stated in so many words that the underwater extension was 400 yards off the visible end of the jetty. In short, this "hair-splitting" assertion of plaintiff is devoid of practical and legal merit.

In the opinion of the court, the proofs and arguments of the owner (or its underwriters) are totally unpersuasive and lacking in merit. As indicated, therefore, the United States of America is entitled to judgment dismissing the complaint on the merits, with costs to abide the event.

Dated: March 22, 1974

H. R. TYLER, JR.
U.S.D.J.

Judgment

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPIRE TRANSPORT INC., as owners of the STEAMSHIP POTOMAC,

Plaintiff,

—against—

UNITED STATES OF AMERICA,

Defendant.

The issues in the above entitled action having been brought on regularly for trial before the Honorable Harold R. Tyler, Jr., United States District Judge, on September 25, 27, October 1 and November 12, 1973, and at the conclusion of the evidence the Court having reserved decision, and the Court thereafter on March 25, 1974, having handed down its findings of fact and conclusions of law directing that judgment be entered dismissing the complaint on the merits with costs, it is,

ORDERED, ADJUDGED AND DECREED, that defendant, United States of America, have judgment against the plaintiff, Empire Transport Inc., as owners of the Steamship Potomac, dismissing the complaint on the merits, with costs to be taxed.

Dated: New York, N. Y.
March 26, 1974

RAYMOND F. BURGHARDT
Clerk

RECORD PRESS, INC., 95 MORTON ST., NEW YORK, N. Y. 10014—(212) 243-5775

3777

100 0 500 1000 1500 2000 METERS

CATALOG REGION 5

7°39' 38' 30' 37' 45' 30' 15' 36' 55' 30' 35' 7°34' 30'

33° 37'

Récif de la Ville

Prohibited Anchorage

Ville Arabe

Sidi Belyout

Quartz Park

Maarif

Table d'Orientation

Camp d'Aïn Bouchi

Arches Noires

PM 1595

PM 3582

PM 3580

Prohibited Anchorage

Pilot

Light

Buoy

Lat 33°37'

Long 7°39'

VAR. 18°30' W (1961)
ANNUAL DECREASE 7'

MAGNETIC

DEVIATION TABLE
FATHOMS TO METERS

Fathoms	Meters	Fathoms	Meters
1	0.5	6	10.4
1½	0.9	6½	11.3
2	1.4	7	12.3
2½	1.8	7½	13.2
3	2.3	8	14.2
3½	2.7	8½	15.1
4	3.2	9	16.1
4½	3.6	9½	17.0
5	4.1	10	18.0
5½	4.5	10½	18.9
6	5.0	11	19.9
6½	5.4	11½	20.8
7	5.9	12	21.8
7½	6.3	12½	22.7
8	6.8	13	23.7
8½	7.2	13½	24.6
9	7.7	14	25.6
9½	8.1	14½	26.5
10	8.6	15	27.5
10½	9.0	15½	28.4
11	9.5	16	29.4
11½	9.9	16½	30.3
12	10.4	17	31.3
12½	10.8	17½	32.2
13	11.3	18	33.2
13½	11.7	18½	34.1
14	12.2	19	35.1
14½	12.6	19½	36.0
15	13.1	20	36.9
15½	13.5	20½	37.9
16	14.0	21	38.8
16½	14.4	21½	39.8
17	14.9	22	40.7
17½	15.3	22½	41.7
18	15.8	23	42.6
18½	16.2	23½	43.6
19	16.7	24	44.5
19½	17.1	24½	45.5
20	17.6	25	46.4
20½	18.0	25½	47.4
21	18.5	26	48.3
21½	18.9	26½	49.3
22	19.4	27	50.2
22½	19.8	27½	51.2
23	20.3	28	52.1
23½	20.7	28½	53.1
24	21.2	29	54.0
24½	21.6	29½	55.0
25	22.1	30	55.9

COMPILATION DATA
French Chart No. 5691
British Admiralty Chart No. 860
U.S. Navy Hydrographic Office Publications:
Miscellaneous 2590

AFRICA-WEST COAST
MOROCCO

RADE DE CASABLANCA

From French surveys to 1939
with additions from a French chart of 1956

SOUNDINGS IN FATHOMS
reduced to the approximate level of Lowest Low Water

HEIGHTS IN FEET ABOVE MEAN SEA LEVEL

For Symbols and Abbreviations see Chart No. 1

MERCATOR PROJECTION

SCALE 1:9 950

Tides

	Time	Height
	h m	ft
Mean High Water Springs	2 23	9.0
Mean High Water Neaps	2 23	7.1
Mean Low Water Springs	8 55	0.0
Mean Low Water Neaps	8 55	1.9

Rade de Casablanca

H.O. 3777

N.O. 51222

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3rd Ed., Mar 1951. Revised 5/23/64

P-ELLIS#2
12-7-72
W CL

2

Mouillage interdit

Récif de la Ville

Rochers Noirs

Beaulieu - Aïn Seba

Sidi Belyout

Gare

Longitude Ouest

Latitude Nord

CÔTE OUEST D'AFRIQUE - MAROC

RADE DE CASABLANCA

d'après les levés de la Mission Hydrographique du MAROC en 1936 et 1939

SERVICE HYDROGRAPHIQUE DE LA MARINE
Paris 1939

Les longitudes sont rapportées au méridien international
Les sondes sont exprimées en mètres et réduites au niveau des plus basses mers

MARÉES	Rmin	Hmoy.	Hauteurs dans les marées moyennes			
			Vives eaux		Mortes eaux	
			PM	BM	PM	BM
P.S.M.	4m0	3m7	4m0	0m3	3m5	0m5

Echelle de 1/10 000

1936. La Topographie a été reportée d'après un canevas au 1/10 000 de l'Ingénieur hydrographe en chef.
1939. Les fonds ont été sondés pour l'objet ci-contre. Les feuilles des Travaux Publics et d'après les levés exécutés par la Mission hydrographique du Maroc, sous la direction de M. Bernard, Ingénieur hydrographe, en chef, à bord de l'Aviso Moulins, commandé par M. Pinlon, Capitaine de frégate.
1971. Les sondes à l'intérieur du port ont été mises à jour d'après les levés effectués par la Direction du port de Casablanca, de 1948 à 1970.

Décembre 1955 - Edition N°5 - Grandes Corrections N°1 - Juin 1971

5697

3

Anchorages Vessels

OUTTEN ROADS

Mouillage interdit

B

3185

1900

1650

Yacht Club

Jetée Delure

Môle

Basin du Commerce

Basin de Delure

Basin de Delure

Basin de Delure

N.A.—MARCH 1967

400
PRICE 50 CENTS

NOTE.—On the reverse side will be found "BUOYAGE AND BEACONAGE," sheet 2.

Issued Monthly

PILOT CHART OF THE NORTH ATLANTIC OCEAN

(THIS CHART SHOULD NOT BE USED FOR NAVIGATIONAL PURPOSES)

Founded upon the researches made in the early part of the nineteenth century by Matthew Fontaine Maury, while serving as a lieutenant in the United States Navy.

MARCH 1967

KEY TO SELECTED MARCH STORM TRACKS OF THE NORTH ATLANTIC OCEAN AS SHOWN UPON THIS CHART

No.	Dates	Begins near	No.	Dates	Begins near
I	Mar. 13-15, 1950	40 N. 79 W.	IX	Mar. 10-16, 1954	31 N. 70 W.
II	7-11, 1951	31 N. 73 W.	XI	7-10, 1954	31 N. 67 W.
IV	2-11, 1951	41 N. 67 W.	XII	7-9, 1959	31 N. 78 W.
V	3-6, 1953	29 N. 67 W.	XIII	10-12, 1959	31 N. 67 W.
VI	5-8, 1953	30 N. 74 W.	XIV	9-13, 1960	34 N. 62 W.
VIII	5-8, 1954	28 N. 74 W.	XV	7-11, 1960	33 N. 68 W.

STORM TRACKS.—The fine red lines indicate the paths followed by the centers of the more severe storms that have occurred during the month in past years. Other tracks, usually older or less representative than those shown on this chart, were published on previous editions. Positions shown are those of Greenwich noon.

EXPLANATION OF WIND ROSES

PREVAILING WINDS AND CALMS.—The wind rose, in blue, in each 5-degree square shows the character of the winds that have prevailed within that square. The wind percentages are concentrated upon eight points. The arrows fly with the wind. The length of the arrow, measured from the outside of the circle on the attached scale, gives the percent of the total number of observations in which the wind has blown from or near the given point. The number of observations is shown by the number in the center of the wind rose. When a rose is too short, feathers are shown beyond its end. The figure in the center of the circle gives the percentage of calms, light airs, and variable winds. When the arrow is too long to be shown conveniently, the shaft is broken and the percentage is indicated by numerals.

FOR EXAMPLE: The attached wind rose should be read thus: The prevailing winds and calms are charted and logged as follows: From N. 31 percent, force 4; from NE. 20 percent, force 3; from W. 1 percent, force 6; from NW. 18 percent, force 2; calms, light airs, and variables, 29 percent.

SCALE OF WIND PERCENTAGES

MARINE CLIMATE OVER THE NORTH ATLANTIC OCEAN DURING MARCH

AVERAGE PRESSURE.—High pressure, dominated by the Azores High, extends in a broad belt across the ocean in middle latitudes with the crest, 1022.1 millibars (30.18 inches), northeastward of the Azores. The Icelandic Low, with a mean central pressure of 1000.0 millibars (29.53 inches), is the most extended seasonal development of the year. The average pressure at the 1015 millibar (29.97 inches).

AVERAGE TEMPERATURE.—A rise of 1° F. to 3° F. in average air temperature has occurred over the greater part of the ocean since February. The greatest changes occur between the Grand Banks and the British Isles, where rises of 3° F. to 5° F. are common. Over the Labrador Sea, Davis Strait, and Baffin Bay, south of the 0° F. isotherm of Labrador. South and southwestward, the average rise is 4° F. along the north coast of Florida and to 80° F. near Cuba. Over the eastern Atlantic the range in average temperature is slight. Along the New York to Channel routes the temperature average between 42° F. and 44° F.

WINDS.—THE WESTERLIES.—The prevailing winds over the greater part of the ocean between 30° N. and 60° N. are westerly, force 4-6 in the mid-ocean high latitudes. Near the Bermuda and Mainmaps coasts, however, the westerlies are often replaced by north and northeast winds. Near the Azores, the prevailing winds are from the northwest to northeast quarter.

THE NORTHEAST TRADES.—The northeast trades, average force 4, prevail over most of the North Atlantic south of the 25th parallel. Close to the African coast, they blow force 5 to 6. Gales are rare, but are reported by northerly winds. The trades have a strong southeasterly trend in the Gulf of Mexico.

THE SOUTHEAST TRADES.—These trades do not advance north of the 5th parallel during March.

CALMS.—Calms are infrequent north of the 40th parallel. South of the 40th parallel they average 1 to 3 percent, except in certain localities. One such locality is located southeast of Bermuda. Maximum calms, 6 percent, are encountered in the Sargasso Sea between 25° N. and 35° N.

GALES.—Gale frequency has diminished over the northern and central waters since February. However, considerable stormy weather still prevails in the belt between the 40th parallel and the 50th parallel, and between 30° W. and 45° W. Gales are reported as far south as the 30th parallel between 40° W. and 45° W. Southward of the 30th parallel the percentages are generally less than 1 percent.

FOG.—The only change in the frequency of fog since February is in the Northeast where there has been an increase with the coming of spring. Over the Grand Banks and in the Gulf of St. Lawrence the frequency is 20 percent or more. Fog is frequent in the approaches to the Gulf of Maine. Moving fog is quite frequent between Cape Cod and Cape Hatteras and in the extreme northern Gulf of Mexico. Fog appears to be any mainly 5 to 10 in the waters south of central Europe.

AMVER

NOVEMBER 1966

The Automated Merchant VEssel Report (AMVER) System, operated by the United States Coast Guard, is an international maritime mutual assistance program which provides important aid to the development and coordination of search and rescue (SAR) efforts in many offshore areas of the world. Merchant ships of all nations making offshore passages are encouraged to voluntarily send sailing reports and periodic position reports to the AMVER Center at Coast Guard New York via selected radio stations. Information from these reports is entered into an electronic computer which generates and maintains dead reckoning positions for the vessels. Characteristics of vessels which are valuable for determining SAR capability are also entered into the computer from available sources of information.

Information concerning the predicted location and SAR characteristics of each vessel known to be within an area of interest, called a Surface Picture (SURPIC), is made available upon request to recognized SAR agencies of any nation for use during an emergency.

Instructions guiding participation in the AMVER System are designated AMVER 1 (1-65) and are available in the following 13 languages: Danish, Dutch, English, French, German, Greek, Italian, Japanese, Norwegian, Portuguese, Russian, Spanish and Swedish. They are available from: Commander, Eastern Area, U. S. Coast Guard, Customhouse, New York, N. Y. 10004; Commander, Western Area, U. S. Coast Guard, 630 Sansome Street, San Francisco, California 94501; and at U. S. Coast Guard District Offices, Marine Inspection Offices, and Captain of the Port Offices in major U.S. ports.

During the month of November 1966, Atlantic track plots of 6177 separate passages were received from 3078 ships, with a daily average plot size of 955 ships. The requests for "Surface Pictures" honored by Atlantic AMVER included 18 medico cases, 2 aircraft alerts, 2 disabled vessels, and 70 miscellaneous urgencies.

OCEAN STATION VESSELS

Ocean station vessels may be temporarily withdrawn from station without advance notice. Notices of such withdrawals and subsequent reoccupations of stations are broadcast as HYDROLANTS.

LOCAL WEATHER

For extended remarks on the marine climate along foreign coasts, see the appropriate Sailing Directions published by the U.S. Naval Oceanographic Office; for the coast of the United States and its possessions, see the appropriate Coast Pilot published by the U.S. Coast and Geodetic Survey.

ATMOSPHERIC TEMPERATURES

The normal atmospheric temperatures, in degrees Fahrenheit, for the month are shown by isotherms (in dotted *red* lines) on the main body of the chart.

FOG

The dotted *blue* lines show the average percentage of all available ships observations in which fog was reported.

MAGNETIC VARIATION

The lines of equal magnetic variation for every degree for the epoch 1965 are shown by gr... lines on the main body of the chart. Use inset chart for the rate of annual change.

EXCEPTIONAL ICE SIGHTINGS

△ Berg (year sighted)
○ Growler (year sighted)

NORTH ATLANTIC LANE ROUTES

North Atlantic Lane Routes shown hereon are in accordance with the North Atlantic Track Agreement. They are normally in force for the month and are shown on this chart by the appropriate track designators "A", "B", "C", "D", "E", "F", or "G". Notice of changes in tracks, other than those regularly scheduled, are broadcast as HYDROLANTS on the regular HYDRO schedules. For complete information concerning the North Atlantic Lane Routes, see the Pilot Chart of the North Atlantic Ocean for April.

PRESSURE TEST VESSEL FOR OCEANOGRAPHIC INSTRUMENTATION

A high pressure test and evaluation vessel capable of exerting pressures up to 20,000 pounds per square inch, or a depth of about 8.5 miles beneath the surface of the ocean, has been developed by the U. S. Naval Oceanographic Office.

Designed to test instruments in undersea work, the vessel has the capability of accepting instruments up to eight feet in length. It can take such instruments to simulated depths which would be experienced in the deepest known parts of any ocean.

The vessel weighs 18 tons and has a plug type cover weighing 4,000 pounds. Officials of the Testing Division of the Naval Oceanographic Office, operators of the new device, said that tests have already caused a re-evaluation of several underwater instruments. Pieces of scientific instrumentation, designed to operate at specific depths, failed to meet stated claims when subjected to pressure tests.

OCEAN CURRENTS MARCH

The arrows on the chart are approximations of the prevailing direction and are figures are approximations of the average speed expressed in knots. The arrows with broad shaft represent the approximate set of currents as obtained from ship log data. The arrows with the broken shaft represent the approximate set of generally known currents for which few data are available. The number over the arrow is the mean drift in knots.

The Gulf Stream, relatively narrow and fast moving, does not have its position rigidly fixed but may meander.

The system of currents in the Bay of Biscay and the extent to which the Equatorial Current penetrates the Gulf of Mexico have not been fully determined.

Permanent currents in the western portion of the Sargasso Sea are relatively weak and variable. Much of the surface water movement is caused by wind drift which may vary considerably during the winter when the Sargasso Sea is alternately under the influence of the continental (northwesterly) and the marine (southwesterly) wind regimes.

Tidal currents predominate in nearshore areas, in various straits and channels, and in bays, particularly where tidal ranges are large. Off large rivers the currents also vary with the runoff. The current patterns shown on this chart for areas such as those noted above should be considered only as an approximation of the net movement of water.

HYDROLANT AREAS

The limits of HYDROLANT AREAS "A", "B", "C", "D" are indicated by heavy dashed *red* lines.

ICE PREDICTIONS

The 46,000 ton luxury liner TITANIC slammed into an iceberg in April of 1912 and took 1,517 persons to a frigid death. Ever since, men of science have been seeking to avoid a repetition of this tragic affair by keeping a close watch on icebergs.

The U. S. Naval Oceanographic Office recently announced that techniques in predicting the path of a rapidly moving ice floe up to a month in advance have met with a significant degree of success.

The subject of the research was an ice island named Arlis II. It was first sighted in May 1961, about 100 miles north of Northeast Alaska. According to the U. S. Office of Naval Research, the island was approximately two-and-one half miles in size and varied in thickness from forty to sixty feet. The island was manned a month after discovery and abandoned four years later. Twenty days after being evacuated, it commenced to break up.

Following abandonment, the Naval Oceanographic Office arranged for photographic documentation of the break-up through aerial observation. Subsequent analysis of factual material revealed pertinent information relating to the moving forces of the island, its behavior, and the cause of the break-up.

The Naval Oceanographic Office places considerable importance on the study of such ice movements. Every spring and summer, ice drifts southward along the Labrador and Newfoundland coasts into the North Atlantic Ocean. This ice consists of glacial ice and sea ice. Glacial ice, in the form of icebergs, presents a great menace to trans-Atlantic shipping.

Closed December 28, 1966 and Printed January 5, 1967

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NOTE.—On the reverse side will be found "BUOYAGE AND BEACONAGE," sheet 2.

N.A.—MARCH 1967

PRICE 50 CENTS
1400

BUOYAGE AND BEACONAGE

This is the second of a series of four Pilot Chart articles portraying the Uniform System of buoyage and beaconage (League of Nations 1936) and the systems maintained by various maritime countries. It has been adapted from Special Publication No. 38, "SYSTEMS OF MARITIME BUOYAGE AND BEACONAGE ADOPTED BY VARIOUS COUNTRIES" (First Edition 1956, Amendment No. 1, Dec. 1956, and Amendment No. 2, Mar. 1960), published by the International Hydrographic Bureau, Monaco, and other sources. This volume was designed to furnish general information on the various systems useful to all navigators. The buoyage of some countries may be in a state of transition from an old to a new system, and either or both systems may be in use for some time to come. Permission to reproduce portions of this publication has been granted by the President of the Directing Committee of the International Hydrographic Bureau.

BUOYAGE SYSTEMS

Summary of Draft Agreement and Rules drawn up by the Committee in London, February 1936, published by League of Nations, Geneva, March 26th, 1936.

There are two systems of buoyage, the *lateral* and the *cardinal*. One or both systems may be used in the same country because of preference or local requirements. The limits of their respective use by each country should be clearly indicated in nautical documents and, if necessary, by means of appropriate marks.

The *lateral system* is generally used for well-defined channels; buoyage marks indicate the position of dangers in relation to the route to be followed by mariners in their vicinity. Unless otherwise stated, the position of marks in the *lateral system* is determined by the general direction taken by the mariner when approaching a harbor, river, estuary or other waterway from seaward, and may also be determined with reference to the main stream of flood tide.

The *cardinal system* is generally used to indicate dangers where the coast is flanked by numerous islands, shoals and rocks, as well as to indicate dangers in the open sea. In this system the bearing (true) of the mark from the danger is indicated to the nearest cardinal point.

FINLAND

Has adopted a new Cardinal System (1965).

Buoyage by Spar buoys, except that Light buoys are used for marking entrances and shoals close to harbours.

SHOAL MARKING

SOUTH BUOYS — Two white reflecting bands (*if any*)

EAST BUOYS — One white reflecting band (*if any*)

ON SHOAL — One red reflecting band above one white band (*if any*)

WEST BUOYS — One red reflecting band (*if any*)

NORTH BUOYS — Two red reflecting bands (*if any*)

MARKING OF OBSTRUCTIONS

AS CONCRETE BLOCKS
EXERCISE MINES
FOUL GROUND
SEWER OUTLETS

No topmark

WRECK MARKING

No marks

Topmarks
Buoys
Light-buoys GREEN
Lights GREEN, group flashing (2)

No marks

Topmarks
Buoys
Light-buoys GREEN
Lights GREEN, single flash

FRANCE
MOROCCO, ALGERIA & TUNISIA

The Uniform System of Maritime Buoyage, League of Nations (1936), has been generally adopted with certain modifications, either the Lateral or Cardinal Systems being used as advisable, as well as marks common to both and those not relating to a standard system.

WRECK MARKING

Wrecks may be marked according to the Lateral System or the Cardinal System. Wreck marks should, if possible, carry the letter "W" followed by the word "Epave". It is also an advantage to add the symbol for a stranded wreck such as is to be found on hydrographic charts.

LATERAL SYSTEM
FAIRWAYS and CHANNELS

	Port hand	Starboard hand
Topmarks		
Buoys	Even numbers, if any, from seaward	Odd numbers, if any, from seaward
Lights	RED, single flashing or occulting, or group flashing or group occulting with a number of flashes or occultations up to four, or WHITE, group flashing (2 or 3) or group occulting (2 or 4), or Both RED and WHITE with the above characteristics	GREEN, of a character different from wreck marking, or WHITE, single flashing or occulting, or group flashing (3) or group occulting (3), or Both WHITE and GREEN with the above characteristics

MIDDLE-GROUNDS

	Main channel to the right	Channels of equal importance	Main channel to the left
Bifurcation — Topmarks			
Bifurcation — Buoys			
Junction — Topmarks			
Junction — Buoys			
Lights	Distinctive where possible	Distinctive where possible	Distinctive where possible

MID-CHANNEL

Buoys — (shape optional, except conical, can or spherical)

Lights (*if any*): RED, preferably

WRECK MARKING
(Lateral System)

To be passed on the port hand	To be passed on either hand	To be passed on starboard hand
Topmarks		
Buoys		
Lights GREEN, group flashing (2)	GREEN, single occulting	GREEN group flashing (3)

NOTE.—Wreck marks should, if possible, carry the letter "W" followed by the word "Epave". The symbol for a stranded wreck may also be added.

CARDINAL SYSTEM
DANGER MARKING

NW — Topmarks; Buoys; Lights (*if any*): WHITE, preferably continuous quick flashing, or flashing or occulting, odd number of variations. (see note b)

NE — Topmarks; Buoys; (see note b)

SW — Topmarks; Buoys; Lights (*if any*): WHITE, preferably group flashing (seven), or group occulting (seven). (see note a)

SE — Topmarks; Buoys; Lights (*if any*): RED, preferably continuous quick flashing, or flashing or occulting, odd number of variations (see note a)

(see note a) — Topmarks; Buoys; (*if any*): RED, preferably group flashing (seven), or group occulting (seven) (see note c)

NOTE (a)
The number of characteristic shapes employed for the body of the mark may, if desired, be limited to two, the conical shape being employed in the northern and eastern quadrants, and the cylindrical shape in the southern and western quadrants.

NOTE (b)
When spars only are used, it may be advantageous in the northern and eastern quadrants to reverse the position of the dark colors; in this case the colors will be:—

Northern quadrant — Eastern quadrant

NOTE (c)
The red lights of the southern and eastern quadrants may, in exceptional cases, when the necessities of differentiation or range of visibility require it, be replaced, respectively:
In the southern, by a white light with an even number of variations (flashing or occulting);
In the eastern, by a white light with an odd number of variations (flashing or occulting).

WRECK MARKING
(Cardinal System)

NW — Topmarks; Buoys; Lights (*if any*): GREEN, quick flashing

NE — Topmarks; Buoys; Lights (*if any*): GREEN, interrupted quick flashing

NOTE.—Wreck marks should, if possible, carry the letter "W" followed by the word "Epave". The symbol for a stranded wreck may also be added.

MISCELLANEOUS
(Common to both Systems)

Isolated dangers — Topmarks; Buoys; Lights (*if any*): WHITE or RED, rythmic

Landfalls — Optional. Examples: (shape optional); Rythmic

Transition marks — Port hand; Starboard hand; Buoys (shape optional)

Quarantine anchorage — (shape optional)

Cutfall and Spoil-grounds — Buoys (shape optional); Lights Different from neighboring lights

Areas used for Naval, Military or Air Force practice purposes — (shape optional)

FEDERAL REPUBLIC OF GERMANY

The system of marking the coastal waters of the Federal Republic of Germany in conformity with inter-state agreements for a standard system of Buoyage (see Supplement to N.T.S. No. 1/1954) has been effected as follows.

There are two systems—the Lateral System in Channels, and Cardinal System marking isolated dangers outside channels. Both systems are used for wreck marking.

LATERAL SYSTEM
CHANNELS
Seaward end (Landfall)
(if not marked by light vessels)

To be left to port	To be passed on either side	To be left to starboard
Topmarks (*if any*)		
Buoys		
Lights WHITE, quick flashing or one of those as used for port hand buoys of channels	WHITE, equal interval	WHITE, interrupted quick flashing, or one of those as used for starboard hand buoys of channels

Sides of Channels

Port hand	Starboard hand
Topmarks (*if any*)	
Buoys — with numbers / unpainted	with capital letters / unpainted
Lights WHITE or RED: group occulting (2 or 4) or group flashing (2 or 4) or (in important places) quick flashing	WHITE: occulting, or group occulting (3), or flashing or group flashing (3), or (in important places) interrupted quick flashing

MIDDLE-GROUNDS

	Main channel to the left	Channels of equal importance	Main channel to the right
Bifurcation — Topmarks			
Bifurcation — Buoys			
Junction — Topmarks			
Junction — Buoys			
Lights	WHITE, equal interval if both channels are lighted; otherwise a light corresponding to that of starboard hand buoys of the main channel;	WHITE, equal interval if both channels are lighted; otherwise a light of the corresponding side of the lighted channel	WHITE, equal interval if both channels are lighted; otherwise a light corresponding to that of port hand buoys of the main channel

BIFURCATION NOT CAUSED BY MIDDLE-GROUND

Main channel to the left	Channels of equal importance	Main channel to the right
Topmarks (*if any*)		
Buoys		

MID-CHANNEL — Topmarks (*if any*); Buoys; Lights (*if any*): RED, flashing or occulting

REEFS or SHOALS of small extent (which may be passed on either side) — RED, equal interval

GREAT BRITAIN & IRELAND

The chief authorities for Buoyage and Buoy Lighting of the Coasts are Trinity House for English and Welsh Waters, the Northern Lighthouse Board for Scottish Waters, and the Commissioners of Irish Lights for Ireland, and in general these conform to the Uniform System of Maritime Buoyage (Geneva, 1936), Lateral System. Spar buoys are rarely used.

The Uniform System of Buoyage has been adopted generally by all major ports in England, Wales, Scotland and Ireland. In all cases, the local Harbor Charts must be consulted.

The following is the system used:

FAIRWAYS and CHANNELS

	Port hand	Starboard hand
Topmarks (*if any*)	not at entrance of channels	not at entrance of channels
Buoys		
Lights (*if any*)	RED flashing: Any number of flashes up to four, or WHITE flashing: Two, four or six flashes. Even numbered, (*if any*).	WHITE flashing: One, three or five flashes. Odd numbered, (*if any*)

MIDDLE-GROUNDS

	Main channel to the right	Channels of equal importance	Main channel to the left
Bifurcation — Topmarks (*if any*)			
Bifurcation — Buoys			
Junction — Topmarks (*if any*)			
Junction — Buoys			
Lights (*if any*)	WHITE or RED, distinctive, where possible		

MID-CHANNEL and LANDFALL

	Mid-channel	Landfall
Topmarks (*if any*)	shape distinctive, but not conical, can or spherical	
Buoys	shape distinctive, but not conical, can or spherical	
Lights (*if any*)	Different from neighboring lights	Flashing

WRECKS

To be left to port	To be passed on either hand	To be left to starboard
Buoys Marked with "W" in white		
Lights (*if any*) — English and Welsh waters	GREEN flashing: Two flashes	GREEN, interrupted quick flashing: Flashing: 7 seconds Eclipse: 3 seconds	GREEN flashing: Three flashes
Lights (*if any*) — Scottish waters	do.	GREEN, occulting	do.
Lights (*if any*) — Irish waters	do.	GREEN single flashing	do.

ISOLATED DANGERS

Topmarks (*if any*); Buoys; Lights (*if any*): WHITE or RED, flashing

OUTFALL and SPOIL GROUNDS

appropriate shape as for channel marking

PRACTICE AREAS
(Naval, Military or Air Force)

Buoys — generally of appropriate shape as for channel marking; or

Lights (*if any*): WHITE / RED

SUBMARINE TELEGRAPH CABLES

shape optional with "Telegraph" in WHITE

WRECKS OR OTHER OBSTRUCTIONS IN CHANNEL

On port side of channel	In mid-channel	On starboard side of channel
Topmarks		
Buoys — or with "Wreck" or "W" in white	or with "Wreck" or "W" in white	or with "Wreck" or "W" in white
Lights of buoys — GREEN, group flashing, (2)	GREEN, equal interval	GREEN, group flashing, (3)
Light-Vessels marked "Wreck"		
Lights of Light-Vessels — Two GREEN lights disposed vertically	Four GREEN lights in the place of the above spheres	Three GREEN lights disposed vertically
Fog bell — 2 single strokes	4 single strokes	3 single strokes

CARDINAL SYSTEM
SHOALS OR REEFS OUTSIDE CHANNEL

NW — Topmarks; Buoys; Lights WHITE, flashing, or group flashing (3), or occulting, or group occulting (3), or interrupted quick flashing

NE — Topmarks; Buoys; Lights RED, or rarely WHITE, flashing, or group flashing (3), or occulting, or group occulting (3), or interrupted quick flashing

GN DANGER — RED, or rarely WHITE, equal interval light

SW — Topmarks; Buoys; Lights WHITE, group flashing (2 or 4), or group occulting, or quick flashing

SE — Topmarks; Buoys; Lights RED, or rarely WHITE, group flashing (2 or 4), or group occulting (2 or 4), or quick flashing.

GREECE

The system of buoyage adopted is determined by the general direction taken by mariners when entering from seaward.

In cases where the configuration of the coast makes it difficult to clearly understand the meaning of "entering from seaward", the general direction for purposes of buoy marking is considered as that running from the Northern or Eastern quadrants to the Southern or Western quadrants. Therefore, in these cases, when entering from the Southern or Western quadrants the marking of the sides of the channel will be the opposite to that shown below.

It has not yet been possible to change to the new system of channel marking in every case as regards the shape of the buoys, thus instead of cylindrical buoys on the starboard hand and conical buoys on the port hand the shape of the buoys on either hand may still be either conical, can, barrel or spherical. In a few cases the shape of the light buoys on either side of the channel may be conical.

FAIRWAYS and CHANNELS (Old System)

Port hand	Starboard hand
Buoys	
Light-buoys — Exhibiting a RED light	Exhibiting a GREEN light

FAIRWAYS and CHANNELS (New System)

Port hand	Starboard hand
Topmarks	
Buoys	
Light-buoys — Exhibiting a RED light	Exhibiting a GREEN light

MIDDLE-GROUNDS

Bifurcation	Junction
Topmarks	
Buoys	

DANGERS IN CHANNEL

To be left on port hand	To be left on starboard hand
Buoys	

WRECKS	ISOLATED DANGERS
Topmarks	
Buoys	

WRECK MARKING

To be left to port	To be passed on either side	To be left to starboard
Buoys with "W" in white	with "W" in white	with "W" in white
Lights GREEN, flashing	GREEN, flashing	GREEN, flashing

SPOIL GROUNDS — Buoys

QUARANTINE ANCHORAGES

WRECKS OR OTHER OBSTRUCTIONS OUTSIDE CHANNEL

NW — Topmarks; Buoys; Lights None.

NE — Topmarks; Buoys; Lights GREEN, interrupted quick flashing.

ON WRECK — GREEN fixed light. Note: Topmarks and lights may also be exhibited on the wreck itself.

SW — Topmarks; Buoys; Lights GREEN, quick flashing

SE — Topmarks; Buoys; Lights None.

FIXED MARKERS

Beacons — with topmark

Dolphins — with spar

Perch

Fixed spars — with downturned broom means; with upturned broom means

MISCELLANEOUS

Quarantine Grounds — Topmarks (*if any*); Buoys

Spoil Grounds — Buoys; or of any other shape

Prohibited Areas — Buoys; or of any other shape with "Sperrgebiet" or "Sperr-G" in black

Explosive Anchorage — with white bands and "P" in black

Roadstead Limits — Topmarks (*if any*); Buoys

Fishing Areas — or of any other shape

Submarine Cables — Topmarks; Buoys with "Kabel" or "K" in white

Measured Distances — (one or more)

Compass Adjustment — Buoys; or can buoy

Mooring — or can buoy

INDONESIA

In adopting the Uniform System, Geneva, 1936. However, the charts should be consulted for local conditions.

LATERAL SYSTEM
CHANNELS

Port hand	Starboard hand
Topmarks	
Buoys	
Lights	WHITE or RED, flashing — Even numbered
	WHITE or GREEN, flashing — Odd numbered
Fixed beacons	
Reflectors of fixed beacons	White or red reflected glow — White or green reflected glow

BIFURCATION — Topmarks; Buoys; WHITE, occulting

JUNCTION — WHITE, occulting

APPROACH — WHITE, flashing

Beacons; Lights: Distinctive from neighboring lights — Distinctive from neighboring lights

Instead of lights: RED, WHITE or GREEN reflectors

PRACTICE & FIRING AREAS — Buoys

3777

CATALOG: REGION 8

AFRICA—WEST COAST

MOROCCO

RADE DE CASABLANCA

From French surveys to 1959
with additions from a French chart of 1964

SOUNDINGS IN FATHOMS
Corrections to Reduce Soundings to Chart Datum

HEIGHTS IN FEET ABOVE MEAN SEA LEVEL

For Symbols and Abbreviations, see Chart No. 1

MERCATOR PROJECTION

SCALE 1:9,900

TIDAL INFORMATION

Place	Height above datum of soundings			
	High Water		Low Water	
	Mean Springs	Mean Range	Mean Springs	Mean Range
Casablanca	feet 11.8	feet 9.1	feet 2.3	feet 5.0

CONVERSION TABLE
FATHOMS TO METERS

Fathoms	Meters	Fathoms	Meters
0	0.0	10	18.3
1	1.8	11	20.1
2	3.7	12	22.0
3	5.5	13	23.8
4	7.3	14	25.6
5	9.1	15	27.4
6	11.0	16	29.3
7	12.8	17	31.1
8	14.6	18	32.9
9	16.5	19	34.8

COMPILATION DATA
French Chart No. 3647
French Admiralty Chart No. 800
U.S. Navy Hydrographic Office Publications
U.S. Army Maps

Prohibited Anchorage

Anchorage

Recif de la Ville

Mosque

Villa Alba

Old Bldg. Dalyout

Quarantine Park

Mosque

Mosque

Mosque

3777

3777

AFRICA—WEST COAST

MOROCCO

RADE DE CASABLANCA

From French surveys to 1959
with additions from a French chart of 1960

SOUNDINGS IN FATHOMS

HEIGHTS IN FEET ABOVE MEAN SEA LEVEL

For Symbols and Abbreviations, see Chart No. 1

MERCATOR PROJECTION

SCALE 1:5,000

TIDAL INFORMATION

Place	Height above datum of soundings			
	High Water		Low Water	
	Mean Springs	Mean Neaps	Mean Springs	Mean Neaps
	feet	feet	feet	feet
Casablanca	11.8	9.1	2..	5.0

COMPILATION DATA

French Chart No. 3687
British Admiralty Chart No. 540
U.S. Navy Hydrographic Office Publications
U.S. Coast and Geodetic Survey data

SOUNDINGS TABLE
FATHOMS TO METERS

Fathoms	Meters	Fathoms	Meters
0	0.0	6	10.9
1	1.8	7	12.8
2	3.7	8	14.6
3	5.5	9	16.5
4	7.3	10	18.3
5	9.1	11	20.1
6	11.0	12	22.0
7	12.8	13	23.8
8	14.6	14	25.6
9	16.5	15	27.4
10	18.3	16	29.3
11	20.1	17	31.1
12	22.0	18	32.9
13	23.8	19	34.8
14	25.6	20	36.6
15	27.4	21	38.4
16	29.3	22	40.2
17	31.1	23	42.1
18	32.9	24	43.9
19	34.8	25	45.7
20	36.6	26	47.6
21	38.4	27	49.4
22	40.2	28	51.2
23	42.1	29	53.1
24	43.9	30	54.9
25	45.7	31	56.7
26	47.6	32	58.5
27	49.4	33	60.4
28	51.2	34	62.2
29	53.1	35	64.0
30	54.9	36	65.9
31	56.7	37	67.7
32	58.5	38	69.5
33	60.4	39	71.3
34	62.2	40	73.2
35	64.0	41	75.0
36	65.9	42	76.8
37	67.7	43	78.7
38	69.5	44	80.5
39	71.3	45	82.3
40	73.2	46	84.2
41	75.0	47	86.0
42	76.8	48	87.8
43	78.7	49	89.7
44	80.5	50	91.5
45	82.3	51	93.3
46	84.2	52	95.2
47	86.0	53	97.0
48	87.8	54	98.8
49	89.7	55	100.6
50	91.5	56	102.5
51	93.3	57	104.3
52	95.2	58	106.1
53	97.0	59	108.0
54	98.8	60	109.8
55	100.6	61	111.6
56	102.5	62	113.5
57	104.3	63	115.3
58	106.1	64	117.1
59	108.0	65	119.0
60	109.8	66	120.8
61	111.6	67	122.6
62	113.5	68	124.5
63	115.3	69	126.3
64	117.1	70	128.1
65	119.0	71	130.0
66	120.8	72	131.8
67	122.6	73	133.6
68	124.5	74	135.5
69	126.3	75	137.3
70	128.1	76	139.1
71	130.0	77	141.0
72	131.8	78	142.8
73	133.6	79	144.6
74	135.5	80	146.5
75	137.3	81	148.3
76	139.1	82	150.1
77	141.0	83	152.0
78	142.8	84	153.8
79	144.6	85	155.6
80	146.5	86	157.5
81	148.3	87	159.3
82	150.1	88	161.1
83	152.0	89	163.0
84	153.8	90	164.8
85	155.6	91	166.6
86	157.5	92	168.5
87	159.3	93	170.3
88	161.1	94	172.1
89	163.0	95	174.0
90	164.8	96	175.8
91	166.6	97	177.6
92	168.5	98	179.5
93	170.3	99	181.3
94	172.1	100	183.1
95	174.0		
96	175.8		
97	177.6		
98	179.5		
99	181.3		
100	183.1		

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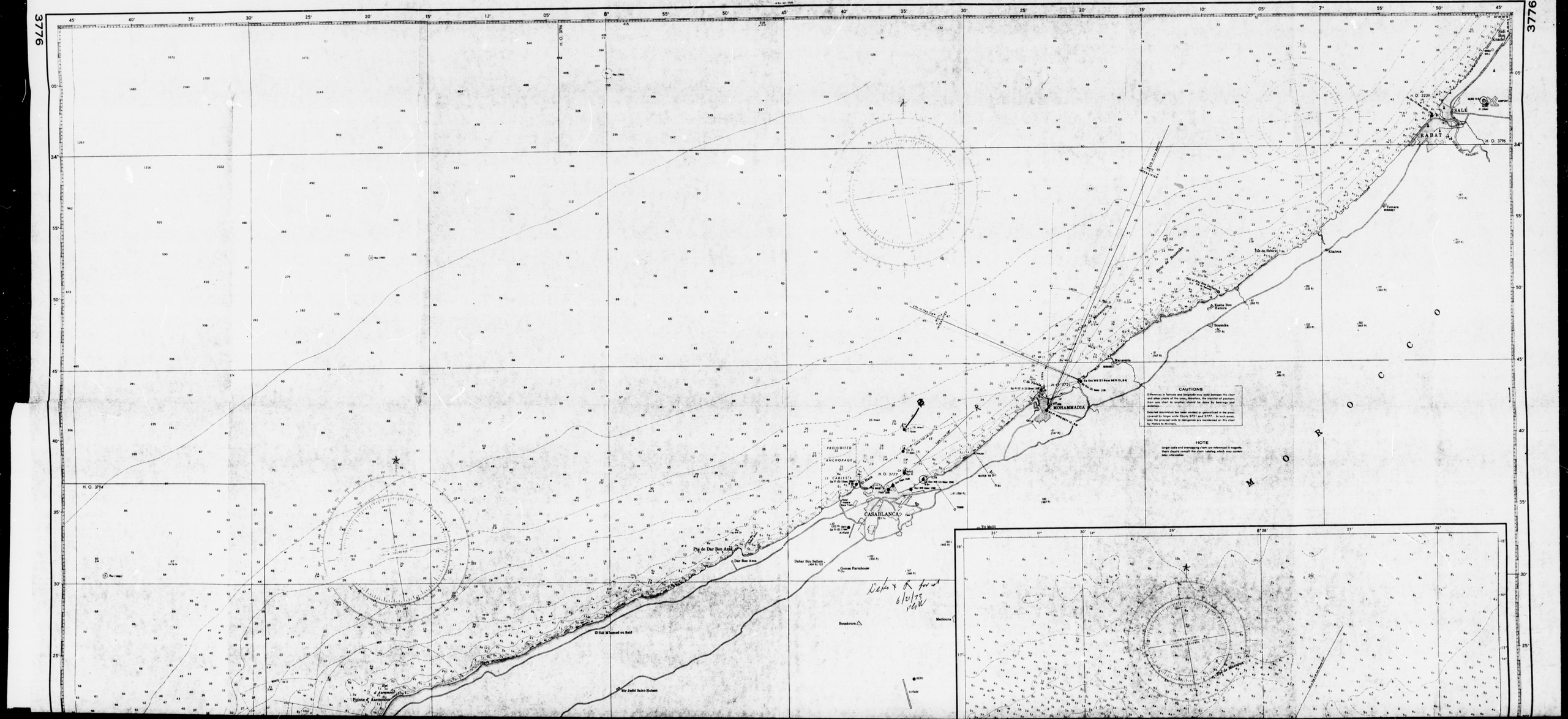
Rade de Casablanca
SOUNDINGS IN FATHOMS — SCALE 1:5,000

H.O. 3777
(2nd Ed.) PRICE $1.75
H.O. 51222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MOHAMMADIA
SALE
RABAT
H.O. 3794
H.O. 3776
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Pte de Dar Bou Aza
Dar Bou Aza
Sidi M'hamed ou Said
Sur Jadid Saint-Hubert
Pointe d'Azemmour
Bouskoura
Medinoura
Gonnet Farmhouse
Oued Nefifikh
Oued Mellah
Oued Bou Regreg
Oued Akrech
Oued Yquem
Oued Cherrat
Oued Beht
Oued Mikkes
Oued Sebou
Oued Ouerrha
Oued Sebaa Aioun
Oued Ouergha
Oued Inaouen
Oued Lekkous
Oued Loukkos
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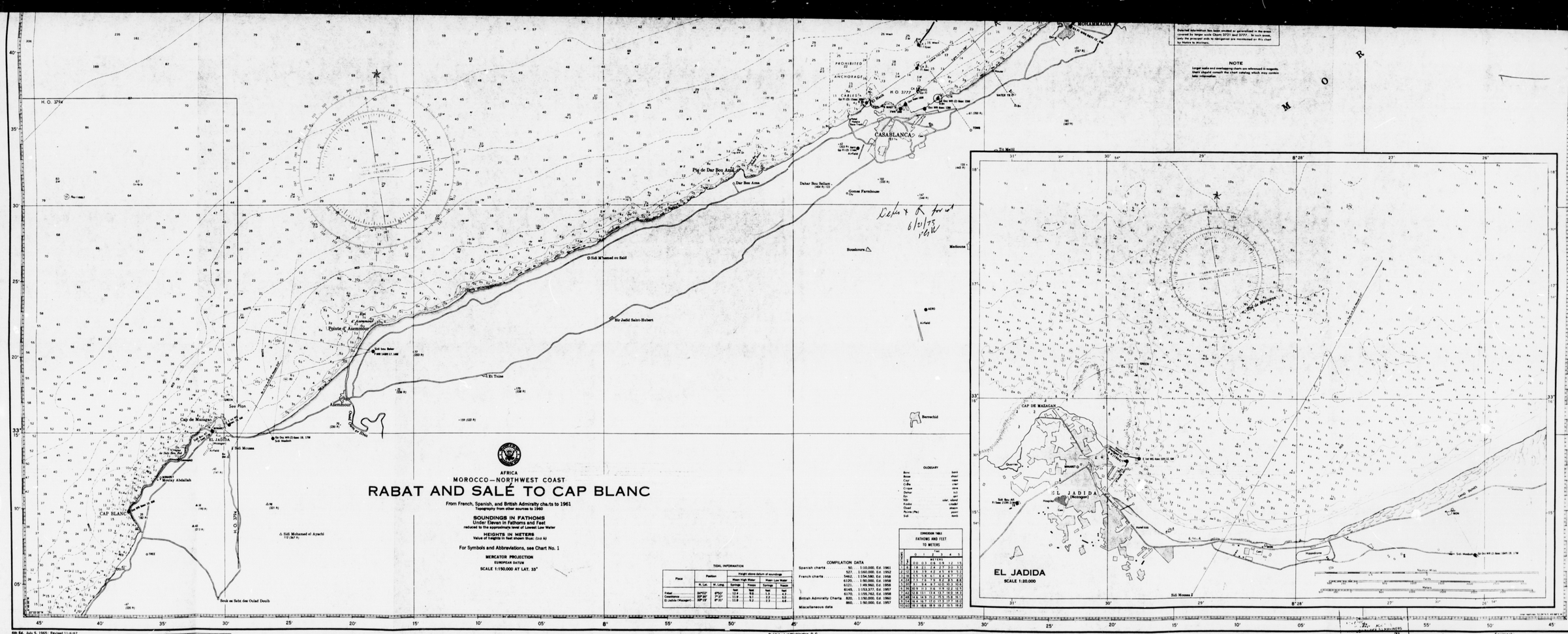
CASABLANCA
MOHAMMEDIA
Pte de Dar Bou Azza
Dar Bou Azza
Sidi M'hamed ou Said
Bir Jedid Saint-Hubert
Ech Thine
Aïn Harrouda
Bouskoura
Médiouna
Berrechid
Aïn Seba
Sidi Moussa
Cap de Mazagan
Sidi Mohamed el Ayachi
Souk ou Sebt des Oulad Douib
CAP BLANC
EL JADIDA
(Mazagan)
Hospital
Cem
Hippodrome
Sidi Medboh
Sidi Moussa II
CAP DE MAZAGAN
Quarantine
Lazaret
Landing Steps
Ruins
Tower
Tk Mouill
Dahar Bou Sellam
Gomes Farmhouse
Pointe d'Azemmour
Azemmour
Oued
Aïn Sebaa
Ft Sebt 2.5M (1.5M)
Sidi Bou Ali
Ft Sebt 2.5M (1.5M)
Sidi Bou Ali
Ft 2.5M (1.5M)
Sidi Abdallah
Ft 2.5M (1.5M)
Sidi Abdallah
Ft 2.5M (1.5M)
Sidi Abdallah

3777

3777

AFRICA—WEST COAST

MOROCCO

RADE DE CASABLANCA

From French surveys to 1936
with additions from a French chart of 1950

SOUNDINGS IN FATHOMS

HEIGHTS IN FEET ABOVE MEAN SEA LEVEL

For Symbols and Abbreviations, see Chart No. 1

MERCATOR PROJECTION

SCALE 1:5,000

TIDAL INFORMATION

Place	Height above datum of soundings			
	High Water		Low Water	
	Mean Springs	Mean Neaps	Mean Springs	Mean Neaps
Casablanca	feet 11.8	feet 9.1	feet 2.3	feet 5.0

COMPILATION DATA

French Chart No. 3691
British Admiralty Chart No. 632
U.S. Navy Hydrographic Office Publication
Howe/Florence 2000

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Rade de Casablanca
SOUNDINGS IN FATHOMS — SCALE 1:5,000

H.O. 3777
(2nd Ed.) PRICE $1.70
H.O. 51222

Underlined figures express the Heights in Feet of drying banks or rocks above the datum to which the soundings are reduced.
All other Heights are expressed in Feet above Mean High Water Springs.

PLANS ON THE WEST COAST OF MOROCCO

For native Geographical Terms see Glossary in Admiralty Sailing Directions.
For Abbreviations see Admiralty Chart 5011.
SOUNDINGS in FATHOMS
(Under Rivers in Fathoms and Feet)

MOROCCO

RADE DE CASABLANCA

FROM THE FRENCH GOVERNMENT CHART OF 1955.

Natural Scale 1/12500
Projection — Gnomonic
Mag. Var.° 9°26'W. (1949), decreasing about 6' annually

See Chart No. 3257

MOROCCO

RADE DE CASABLANCA

FROM THE FRENCH GOVERNMENT CHART OF 1956.

Natural Scale 1/5,000

Projection — Gnomonic

Mag. Var.ⁿ 9°W. (1959), decreasing about 6' annually

MOROCCO

APPROACHES TO CASABLANCA AND MOHAMMEDIA

FROM THE FRENCH GOVERNMENT CHARTS TO 1956.

Mag. Var.ⁿ 9°W. (1959), decreasing about 6' annually

Natural Scale 1/50,000

Projection — Gnomonic

CAUTIONS

(1) Fixed nets may be found off the coast in the vicinity of Fedala, extending as much as seven miles off shore. Mariners are warned to keep a good lookout for these nets, which are usually marked by day and night, and are described in the Sailing Directions.

(2) Delighted obstructions may be found near the seaward end of the piers.

Prohibited Anchorage

Sea Chart No. 3257

CASABLANCA

Tidal Information

Place	Height above datum of soundings			
	High Water		Low Water	
	Mean Springs	Mean Neaps	Mean Springs	Mean Neaps
Casablanca	11·4 feet	8·1 feet	0·0 feet	3·3 feet
Mohammedia	11·1 "	8·0 "	0·0 "	3·3 "

Longitude 7° West from Greenwich

London: Published at the Admiralty, 22nd March 1957, under the Superintendence of Rear Admiral K.St.B.Collins, O.B.E., D.S.C., Hydrographer.

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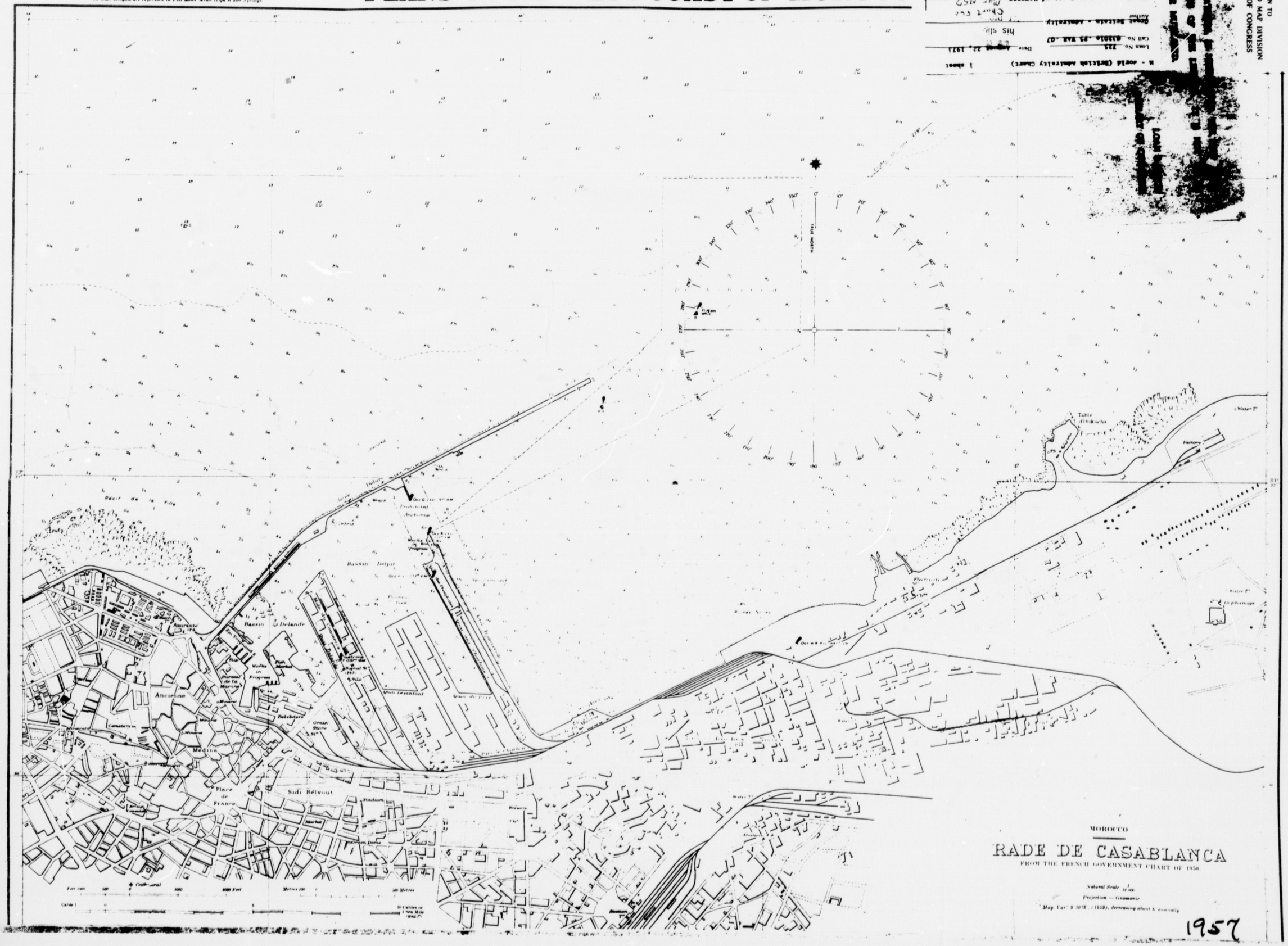
Underlined figures express the Heights in Feet of drying banks or rocks above the datum to which the soundings are reduced.
All other Heights are expressed in Feet above Mean High Water Springs.

PLANS ON THE WEST COAST OF MOROCCO



MOROCCO

RADE DE CASABLANCA

FROM THE FRENCH GOVERNMENT CHART OF 1956.

Natural Scale 1/12,500
Projection — Gnomonic
Mag. Var. 9° 10'W. (1959), decreasing about 6' annually

1957

DD